

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 80-82.)

sale of moveable property under the decree of a Revenue Court:

Provided that, in addition to the particulars exempted by that law from liability to sale, seed-grain belonging to the defaulter, and so much of the produce of his land as the Deputy Commissioner thinks necessary for the subsistence, until the harvest next following, of the defaulter and his family and of any cattle exempted by that law, shall be exempted from sale under this section.

[Act XIX,
1873, s. 157;
Act VIII,
1879, s. 14.]

80. (1) At any time after an arrear of land-revenue has accrued on a holding, the Deputy Commissioner may transfer the holding, for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer to any person being a landowner of the estate in which the holding is situate and not being himself a defaulter, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Deputy Commissioner may see fit to prescribe.

(2) The Deputy Commissioner shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit.

(3) The transferee shall not either before or after the expiration of the term of the transfer be entitled to compensation for any improvements made by him on the holding or for any losses sustained by him by reason of the transfer.

(4) A transfer under this section shall not affect the joint and several liability of the landowners of the estate in which it is enforced.

(5) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

[Act XIX,
1873, ss. 154,
155 and 156.]

81. (1) At any time after an arrear of land-revenue has accrued, the Deputy Commissioner may cause the estate or holding in respect of which the arrear is due to be attached and taken under the management of himself or of an agent appointed by him for that purpose.

(2) The Deputy Commissioner or the agent shall be bound by all the engagements which existed between the person who immediately before the attachment was in possession of the land attached, and the inferior landowners or tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of that person until the arrear has been satisfied, or until the Deputy Commissioner restores the land to the person whose interest was attached.

(3) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in defraying the arrear.

(4) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next fol-

lowing the date of the attachment, but, if the arrear is sooner liquidated, the land shall be released and the surplus receipts (if any) made over to the landowner.

82. (1) When an arrear of land-revenue has been due for a longer period than one month, and the Deputy Commissioner is of opinion that the foregoing processes are not sufficient for the recovery of the arrear, he may, in addition to or instead of all or any of those processes, report the matter to the Financial Commissioner, and the Financial Commissioner may thereupon order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

(2) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

- (a) while under attachment under the last foregoing section, or
- (b) while under the charge of the Court of Wards.

(3) When the assessment of any land has been annulled, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner:

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(4) After the expiration of that term the Deputy Commissioner shall assess the estate or holding at such sum as the Financial Commissioner approves for the remainder of the term of the current assessment of the district or tahsil, and shall announce the assessment in the manner prescribed in section 60.

(5) Notice of refusal to be liable for the assessment may be given in the manner mentioned in section 64 within thirty days from the date on which the assessment was announced.

(6) If notice is so given, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(7) When the assessment of a holding is annulled, the joint responsibility of the other landowners of the estate for the land-revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(8) The Financial Commissioner may direct that any contract made by the person who immediately before the annulment of the assessment of an estate or holding was in possession of the lands comprised therein, or any contract made by any person through whom that person claims, relating to those lands, shall not be binding on the Deputy Commissioner or his agent or farmer during the term of the management or farm.

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XIX, ss. 160, and 162.] 83. (1) When any land is attached under section 81, or when the assessment of any land has been annulled under the last foregoing section, the Deputy Commissioner shall make proclamation thereof.

(2) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Deputy Commissioner or his agent or farmer shall be credited to the person making the payment, or relieve him from liability to make the payment again to the Deputy Commissioner or his agent or farmer.

(3) No payment made before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Deputy Commissioner, be credited to the person making the payment in account with the Deputy Commissioner or his agent or farmer.

XIX, s. 166.] 84. When an arrear of land-revenue has accrued and the Deputy Commissioner is of opinion that the foregoing processes are not sufficient for the recovery of the arrear, he may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained and with the previous sanction of the Financial Commissioner, sell the estate or holding in respect of which the arrear is due:

Provided that land shall not be sold—

(a) for any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (a), (b), (c) or (d); or

(b) for any arrear which has accrued while the land was under attachment under section 81 of this Act; or

(c) for any arrear which has accrued while the land was held under direct management by the Deputy Commissioner, or in farm by any other person, under section 82, after either an annulment of assessment or a refusal to be liable therefor.

XIX, ss. 167, 168, and 169.] 85. (1) Land sold under the last foregoing section shall be sold free of all incumbrances; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(2) Nothing in sub-section (1) shall affect—

(a) the right of occupancy of a tenant having that right in the land; or

(b) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship or burial-ground, so long as the land continues to be used for the purpose specified in the lease; or

(c) any incumbrance specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

86. (1) If the arrear cannot be recovered by any of the processes hereinbefore provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Deputy Commissioner may, where the defaulter owns any other estate or holding, or any share in any other estate or holding, or any other immoveable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due:

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(2) When the Deputy Commissioner determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(3) The Deputy Commissioner may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(4) Any private alienation of the property, whether by sale, gift, mortgage or otherwise, made after the making of the proclamation and before the withdrawal thereof shall be void.

(5) In proceeding against property under this section, the Deputy Commissioner shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

87. Notwithstanding anything contained in section 75, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the time of payment and signed by him or his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

Procedure in Sales.

88. (1) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Deputy Commissioner shall issue a proclamation of the intended sale, stating—

(a) the date, time and place of the sale;

(b) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon;

(c) whether the property is to be sold under section 84 or under section 86, and, when in the former case the property is to be sold subject to an incumbrance specially saved by order of the Financial Commissioner under section 85, what that incumbrance is; and

(d) the amount for the recovery of which the sale is ordered.

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(2) The proclamation shall also state that any person claiming a right of pre-emption must, on penalty of forfeiting the right, give notice of his claim to the Deputy Commissioner before the commencement of the sale.

[Act XIV,
1882, s. 288.]

89. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

[Act XIV,
1882, s. 289.]

90. (1) A copy of the proclamation shall be served on the defaulter, and be fixed up in a conspicuous part of the office of the Tahsildar of the tahsil in which the property to be sold is situate.

(2) After a copy of the proclamation has been so fixed up in the office of the Tahsildar, a copy thereof shall be fixed up in the office of the Deputy Commissioner.

(3) The proclamation shall be further published in manner prescribed in section 25 and in such other manner as the Deputy Commissioner thinks expedient.

[Act XIV,
1882, s. 290.]

91. (1) The sale shall not take place on a Sunday or other holiday, or until after the expiration of at least thirty days from the date on which the copy of the proclamation was fixed up in the office of the Deputy Commissioner.

(2) The sale shall be by public auction at the office of the Deputy Commissioner, and shall be conducted either by the Deputy Commissioner in person or by a Revenue-officer specially appointed by him in this behalf.

(3) The Deputy Commissioner may from time to time postpone the sale.

[Act XIX,
1873, s. 173.]

92. If before the day fixed for the sale the defaulter pays, either at the place and in the manner prescribed under section 71 or to the officer in charge of the Government treasury of the district, the arrear in respect of which the land has been proclaimed for sale, the sale shall be stayed.

[Cf. Act XLV,
1860, s. 185.]

93. A defaulter shall be incapable of purchasing land at a sale under this Chapter.

[Act XIX,
1873, s. 188;
Act XVIII,
1881, s. 110.]

94. (1) At any time before the close of the day on which the sale is concluded any person who before the commencement of the sale has given notice of his claim to a right of pre-emption may claim to take the property at the sum last bid.

(2) If the right is not disputed, he shall be declared to be the purchaser.

(3) If the right is disputed, the Deputy Commissioner shall decide the dispute and declare the purchaser.

[Act XIV,
1883, s. 306.]

95. The person declared to be the purchaser shall pay immediately after the declaration a deposit of twenty-five per centum on the amount of the purchase-money to the officer conducting the sale, and, in default of that deposit, the property shall forthwith be put up again and sold.

96. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the sale took place, or, if the fifteenth day is a Sunday or other holiday, then on the first office-day after the fifteenth day.

97. In default of payment within the period mentioned in the last foregoing section, the deposit, after defrayment of the expenses of the sale, shall be forfeited to the Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

98. The deficiency of price (if any) which may happen on a re-sale consequent on a purchaser's default under this Chapter, and all expenses attending that re-sale, shall be recoverable from the defaulting purchaser as if the same were an arrear of land-revenue.

99. Every sale of immoveable property under this Chapter shall be reported by the Deputy Commissioner to the Commissioner.

100. (1) At any time within thirty days from the date of the sale, application to set aside the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

(2) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

101. (1) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale; and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(2) An order made under this section shall be final.

102. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

103. A sale made after a postponement, and a re-sale consequent on a purchaser's default under section 97 or on the setting aside of a sale, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

104. (1) After a sale has been confirmed in manner aforesaid, the Deputy Commissioner shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

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(2) The certificate shall state whether the property was sold under section 84 or under section 86, and, when in the former case it was sold subject to an incumbrance specially saved by order of the Financial Commissioner under section 85, what that incumbrance is.

(5) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance.

(4) Any suit brought, whether in a Civil or Revenue Court, against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

(5) The person named in the certificate as purchaser of any land shall be liable for all instalments of land-revenue falling due in respect of the land after the date of the confirmation of the sale.

105. (1) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears due from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue or of sums recoverable as arrears of land-revenue, and the surplus (if any) shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one landowner, then to the landowners either collectively or according to the amount of their recorded interests, as the Deputy Commissioner thinks fit.

(2) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

CHAPTER VII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

106. (1) When a village officer, required by rules made under section 35 to collect land-revenue or other payments recorded under section 65, satisfies the Deputy Commissioner that those payments have not been made to him, the Deputy Commissioner may, subject to rules made by the Financial Commissioner in this behalf, recover them as if they were arrears of land-revenue.

(2) When the Deputy Commissioner enforces the payment of sums due to a village-officer under this section, he may refuse to consider any set-off claimed by the person against whom or whose property he issues process.

107. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely:—

- (a) sums payable in respect of land assessed or assessable to land-revenue of the nature of quit-rent or commutation for service, and fees, fines, costs and other charges, including the village-officers' cess, payable under this Act;

(b) village-cesses, so far as they are applicable to conservancy, police or other objects declared by the Local Government to be for the benefit of an estate; [See section 48 of this Bill.]

(c) revenue due to the Government on account of pasturage or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other interests or rights described in section 45 or section 46 in cases in which the revenue so due has not been included in the assessment of an estate; [See section 70 of this Bill.]

(d) sums due to the Government from an agent appointed by the Deputy Commissioner to manage the land of a defaulter, or of a landowner who has refused to be liable for an assessment, or from the farmer of such land, or from the surety of the agent or farmer;

(e) fees leviable under section 33 of the Punjab District Boards Act, 1883; and XX of 1883.

(f) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation-works, not being sums recoverable as arrears of land-revenue under any enactment for the time being in force.

108. (1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Deputy Commissioner to sell the produce and to pay to him out of the proceeds of the sale thereof the amount or value of— [Act XII, 1881, s. 56; Act IX, 1883, s. 22.]

(a) any arrear of rent legally exigible by him in respect of the tenancy; and

(b) the rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

(2) If the Deputy Commissioner finds the whole or any part of the landlord's claim to be proper, he shall cause the produce, or such portion thereof as he thinks necessary, to be sold, and the proceeds of the sale to be applied in the first instance to satisfy the claim or the part thereof found to be proper, and shall give information of his proceedings to the Court which ordered the attachment.

(3) The finding of the Deputy Commissioner under this section shall be deemed to be a decree of a Revenue Court in a suit between the landlord and the tenant.

CHAPTER VIII.

VILLAGE WASTE-LANDS.

109. (1) When the majority of the land-owners desire, or the Local Government considers it expedient, that a part of the common waste-lands of an estate or holding should be managed for the production of timber, fuel or fodder, the Local Government may by proclamation propose to notify that any part of those waste-lands not exceeding one-fifth of the whole shall be so managed. [New. See Circular of the Government of India, Department of Revenue and Agriculture, No. 16A., dated the 1st March, 1883.]

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(2) The proclamation shall define the area to which the proposed notification is to apply, and state the purpose for which the area is to be managed, and shall call upon any person objecting to the proposed notification to show cause before the Deputy Commissioner, within three months from the date of the making of the proclamation, why the area should not be notified.

(3) Any objection made under sub-section (2) shall be recorded by the Deputy Commissioner, and be submitted to, and considered by, the Local Government.

(4) When three months from the date of the making of the proclamation have expired, and the Local Government has considered any objection which may have been submitted to it, the Local Government may notify the area and the purpose for which it is to be managed.

(5) The Local Government may withdraw any area from the operation of a notification under this section.

110. (1) While an area is notified, all rights existing therein shall be suspended, and the area shall be managed in accordance with rules to be made in this behalf by the Local Government.

(2) When any area is withdrawn from the operation of a notification, the rights suspended under sub-section (1) shall revive and the management under this Act shall cease.

(3) In making any rule under sub-section (1) the Local Government may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and when the breach is a continuing breach with a further fine which may extend to ten rupees for every day after the first during which the breach continues.

111. (1) The persons who before the publication of the notification were entitled to the profits of the notified area may assess themselves by the vote of a majority of their body for the purposes of the management of the area.

(2) The assessment may be in labour or in cash or in both, and shall be subject to the approval of the Deputy Commissioner.

(3) When the assessment, or any part of the assessment, of any person consists of labour, the sum to be paid by him in cash in default of performance of the labour shall be determinable by the Deputy Commissioner as an alternative to the assessment or part.

(4) Any sum assessed or determinable under this section may be recovered by the Deputy Commissioner as an arrear of land-revenue.

(5) When an assessment is made under this section, the Deputy Commissioner may permit the notified area to be managed, under the superintendence of the prescribed Revenue-officer, by the persons paying the assessment, and the profits of the area shall be divisible among those persons in such manner as, subject to any rules under the last foregoing section, the Deputy Commissioner deems just.

112. When an assessment is not made under the last foregoing section, the following consequences shall ensue, namely:—
Management where assessment is not made to meet the cost.

(a) the notified area shall be managed by the prescribed Revenue-officer;

(b) the cost of management shall be defrayed from the proceeds of the produce of the area; and

(c) only the balance, if any, of those proceeds shall be divisible in manner aforesaid among the persons who before the publication of the notification were entitled to the profits of the area.

113. While an area is notified, the provisions of Chapter XI of the Indian Forest Act, 1878, shall apply to any part of that area which is closed to grazing.

CHAPTER IX.

SURVEYS AND BOUNDARIES.

114. (1) The Financial Commissioner may, with the previous sanction of the Local Government, make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates.

(2) Rules under this section may prescribe, among other matters, the form of boundary-marks and survey-marks and the material to be used in their construction.

115. (1) The prescribed Revenue-officer may, for the purpose of framing any record or making any assessment under this Act, define the limits of any estate, holding or field, and, for the purpose of indicating those limits, require boundary-marks and survey-marks to be erected or repaired.

(2) In defining the limits of any land under sub-section (1), the Revenue-officer may lay down or restore any boundary or any boundary-mark or survey-mark already determined or set up by, or by order of, any Court, Revenue-officer or Forest-settlement-officer.

116. Subject to any rules made by the Financial Commissioner in this behalf with the previous sanction of the Local Government, boundary-marks and survey-marks shall be erected and kept in repair by and at the cost of the persons interested in the land for the indication of the limits of which they are required:

Provided that the Local Government may in any case direct that the cost of erection in the first instance shall be borne by the Government or be a charge on the proceeds of the village-officers' cess.

117. (1) If the persons interested in the land fail to erect or repair a boundary-mark or survey-mark within fifteen days from the date of their being required by the prescribed Revenue-officer to do so,

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the Revenue-officer may cause it to be erected or repaired.

(2) Where the Revenue-officer causes a boundary-mark or survey-mark to be erected or repaired, he shall, subject to any rules made under the last foregoing section, apportion the cost among those persons in such manner as he deems just, and certify the same to the Deputy Commissioner.

(3) The Deputy Commissioner may recover the cost as if it were an arrear of land-revenue.

et XXXI 1, 7, s. 25; XVIII, s. 23.] **118.** Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

et XIX, s. 40.] **119.** (1) When any land is being surveyed in pursuance of a direction of the Local Government or of rules under Chapter IV of this Act, any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

et Act V, s. 30.] (2) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable, at the discretion of the prescribed Revenue-officer, to fine which may extend to ten rupees.

et Act V, s. 97.] **120.** (1) For the purposes of the survey of any land under Chapter IV of this Act, the landowners shall be bound to provide persons to act as flag-holders and chainmen.

(2) If the landowners fail to provide persons for that purpose or to provide them in sufficient number, such other persons as the Revenue-officer considers necessary may be employed and the cost of employing them recovered from the landowners as if it were an arrear of land-revenue.

121. (1) If it is necessary to make a survey by other agency than that of Professional surveys, Revenue-officers or village-officers, the Local Government may publish a notification stating—

- (a) the local area to be surveyed and the nature of the survey;
- (b) the names or official designations of the officers by whom the survey is to be made; and
- (c) the survey-marks to be erected by those officers.

(2) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 118.

et XIX, s. 142.] **122.** (1) If any person wilfully destroys, injures or removes without lawful authority a boundary-mark or survey-mark lawfully erected, or if a landowner negligently

suffers any such mark to be destroyed, injured or removed without lawful authority, that person or landowner may be ordered by the prescribed Revenue-officer to pay such fine, not exceeding fifty rupees for each mark so destroyed, injured or removed, as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

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CHAPTER X.

SUPPLEMENTAL PROVISIONS.

Rent and Revenue Deposits.

123. If a person liable to pay any sum [Rules under Act XXXIII of 1871, F. II 9; Compare Act XII of 1881, s. 50.] to a headman or other landowner on account of rent, or of any liability to which that person is subject under this Act, tenders that sum to the headman or other landowner, and the sum is refused or a receipt therefor not forthwith granted, or if that person is doubtful as to the person entitled to receive the sum, he may apply to the prescribed Revenue-officer for leave to deposit the amount with the Government, and the Revenue-officer shall receive the deposit if, after such enquiry as he thinks fit, he is satisfied that the applicant has sufficient ground for making the application.

124. (1) If the deposit purports to be made [Compare Act XII of 1881, ss. 52, 54, 55.] on account of any payment due to the Government, it may be credited accordingly.

(2) If it purports to be made on any other account, the Revenue-officer shall issue a notice of the deposit to the person to whose credit the sum has been deposited.

(3) If within three years from the date of the service of the notice that person appears and claims the sum, the Revenue-officer, if satisfied as to his title to receive it, may pay it to him.

(4) If the Revenue-officer is not so satisfied, he may retain the deposit pending the decision of a Court of competent jurisdiction, and shall then pay the deposit in accordance with that decision.

(5) If the deposit is not so paid within three years, it shall be repaid to the depositor or disposed of as he may desire.

(6) When a deposit has been received it shall, in any question between the depositor and the person to whose credit the deposit was placed, be deemed, while it remains with the Government or after it has been paid under sub-section (3) or sub-section (4), to be a payment made by the depositor to that person.

125. No suit or other proceeding shall be [Act XII, 1881, s. 55A.] instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything lawfully done by a Revenue-officer under the last foregoing section, but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

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Execution of Decrees by Revenue-officers.

126. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land shall be addressed to the Deputy Commissioner, or such Revenue-officer as the Deputy Commissioner may appoint in this behalf, and be executed by the Deputy Commissioner or that Revenue-officer in accordance with the provisions of the law applicable to the Court and with any rules consistent therewith made by the Local Government with the concurrence of the Chief Court.

127. (1) Orders issued by any Civil or Criminal Court for the attachment of the rents or for the attachment or sale of the produce of any land shall be addressed to the Deputy Commissioner or such Revenue-officer as the Deputy Commissioner may appoint in this behalf, and shall be executed under the Deputy Commissioner's direction and control.

[Cf. C. P. T. Act, s. 20.]

(2) Subject to the other provisions of this Act the attachment of the produce of any land shall not prevent any person from reaping, gathering or storing the produce, or doing any other act necessary for its preservation.

(3) The Financial Commissioner may, with the previous sanction of the Local Government, make rules to regulate the procedure of Revenue-officers in attaching the rents or attaching and selling the produce of land.

Division of Produce.

128. In either of the following cases, namely:—

(a) where two or more landowners, or two or more tenants, are jointly interested in any produce, and either or any of the landowners or of the tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing the produce, or

(b) where it is necessary to divide any produce for the purposes of this Act,

the rules contained in sections 20 to 22 (both inclusive) of the Punjab Tenancy Act, 1886, shall apply so far as they can be made applicable.

Power to make Rules.

129. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Financial Commissioner, with the previous sanction of the Local Government, may make rules, consistent with this Act and any other enactment for the time being in force,—

(a) fixing the number and amount of the instalments of rent and rates and of cesses and other sums of which a record has been made under this Act, and the dates for the payment of those instalments;

(b) fixing the dates on which profits shall be divisible by headmen or other persons by whom they are realised on behalf of co-sharers;

(c) regulating the procedure in cases where persons are entitled to inspect records of Revenue-offices or Revenue Courts, or

records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(d) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made or compiled in Revenue-offices or Revenue Courts or submitted to any authority;

(e) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English;

(f) providing for the inspection of those offices and Courts and the supervision of the working thereof;

(g) regulating all such matters as he thinks fit, with a view to promoting the efficiency of the establishments of those offices and Courts, and maintaining proper discipline among the ministerial officers of those establishments; and

(h) generally for carrying out the purposes of this Act.

(2) Rules under clauses (a), (b) and (h) may be of general or special application, and may be expressed to supersede anything contained in any record-of-rights.

(3) Until rules are made under clauses (a) and (b) the sums therein referred to shall be payable in the instalments and at the times in and at which they are now payable.

(4) Rules made under clause (g) may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary which may be or become due to the officers fined.

130. All powers to make rules under this Act

shall be exercised subject to the control of the Governor General in Council.

131. (1) The Local Government and the Financial Commissioner shall, before making any rules under this Act, publish, in such manner as may in its or his opinion be sufficient for giving information to persons interested, a draft of the proposed rules, with notice of the date at or after which the draft will be taken into consideration, and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before that date.

(2) Every rule made by the Local Government or the Financial Commissioner shall be published in the local official Gazette, and that publication shall be conclusive proof that the rule has been made as required by this section.

Jurisdiction with respect to Revenue matters and fluvial Lands.

132. (1) Except as otherwise provided by this Act, a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-

Jurisdiction of Civil Courts barred in matters within the jurisdiction of Revenue-officers and Revenue Courts.

[Act X. 1871, s. 65; Act XVIII, 1873, s. 219; XVIII, s. 152.]

The Punjab Land-revenue Bill.
(Chapter X.—Supplemental Provisions.—Sections 133-135.)

officer or Revenue Court is empowered by this Act or by the Punjab Tenancy Act, 1886, to dispose of or to hear and determine, or take cognizance of the manner in which the Local Government or any Revenue-officer or Revenue Court exercises any powers vested in it or him by or under those Acts; and in particular—

(2) A Civil Court shall not exercise jurisdiction with respect to—

- (a) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;
- (b) any claim to the office of kánungo, zaildár or village-officer, or in respect of any injury caused by exclusion from the office, or to compel the performance of the duties thereof;
- (c) any notification directing the making or revision of a record-of-rights;
- (d) the framing of a record-of-rights, or the preparation, signing or attestation of any of the documents included therein;
- (e) the correction of any entry in a record-of-rights;
- (f) any claim for partition of an estate, holding or tenancy, or any dispute connected with, or arising out of, proceedings for partition, not being a dispute as to the extent of the shares belonging to the parties to the proceedings;
- (g) any question as to the distribution of land at the partition of an estate or holding, or as to the distribution of land subject by established custom to periodical re-distribution;
- (h) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor General in Council;
- (i) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;
- (j) the amount of land-revenue to be assessed on any estate or holding under this Act;
- (k) the amount of any other revenue to be assessed under this Act, or of any cess or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;
- (l) the amount of, or the liability of any person to pay, any fees, fines, costs or other charges imposed under this Act;
- (m) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act;
- (n) the liability of any person to pay a sum appearing from the record prepared under section 65 to be payable by him;
- (o) the formation of an estate out of excess waste-land, or the declaration of an es-

tate so formed to be at the disposal of the Government;

- (p) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;
- (q) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery, of land-revenue or any sum recoverable as an arrear of land-revenue;
- (r) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue; or
- (s) any claim connected with, or arising out of, proceedings for the management of any area for the production of timber, fuel or fodder.

133. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two Civil or Revenue Courts or of two Revenue-officers

Jurisdiction with respect to land subject to fluvial action.

any land subject to fluvial action is situate, either of those Courts or officers may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and entertain and dispose of any suit or proceeding relating to that land, with respect to which the Court or officer is competent as regards the nature of the suit or proceeding, and the value of its subject-matter, to exercise jurisdiction.

(2) When the Court or officer has recorded a statement to the effect mentioned in sub-section (1), an objection that the suit or proceeding was instituted or had before a Court or officer not having jurisdiction in the place where the land is situate shall not be allowed by any appellate or revisional Court or officer.

(3) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court or officer that a decree or order in a suit or proceeding relating to such land as aforesaid was made by a Court or officer not having jurisdiction in the place where the land is situate, the appellate or revisional Court or officer shall not allow the objection if in its or his opinion there was, at the time of the institution of the suit or proceeding, any reasonable ground for uncertainty as to the Court or officer having jurisdiction with respect thereto.

Miscellaneous.

134. (1) Any record or paper which a village-officer is required by law or s. 76. [Act I, 1872.]
Papers kept by village-officers to be deemed public documents. by any rule under this Act to prepare or keep shall be deemed to be the property of the Government.

(2) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect.

I of 1872.

135. All persons whose rights, interests or liabilities are required by this Act to be entered in a record-of-rights or other record prepared under this Act shall be

Obligation to furnish information necessary for the preparation of records.

The Punjab Land-revenue Bill.
(The Schedule.—Enactments repealed.)

bound to furnish on the requisition of the Revenue-officers or village-officers engaged in preparing the record all information necessary for the correct preparation thereof.

136. If a person required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time within the limits of the estate in which he ordinarily resides fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to fifty rupees.

137. When service is paid for by a percentage deducted from the land-revenue, assignments of land-revenue shall, unless the Local Government in any case otherwise determines, be reduced by the same percentage.

[Act XII, 1881, s. 29.] **138.** (1) Where a lease has been granted, or an agreement has been entered into, by a landowner, fixing for a period exceeding the term of the assessment the rent of any land assessed to land-revenue, and that term has expired, the lease or agreement shall be voidable—

(a) at the option of the landlord if the land-revenue of the land has been enhanced and the tenant refuses to pay such rent as the prescribed Revenue-officer, on the application of the landlord, determines to be fair and reasonable; and

(b) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent as the prescribed Revenue-officer, on the application of the tenant, determines to be fair and reasonable.

[Cf. Act XXXIII, 1871, s. 38.] (2) Any contract or agreement relative to the occupation, rent or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the contract or agreement, or unless the contract or agreement is otherwise terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

[Act XVIII, 1881, s. 155.] **139.** (1) A Revenue-officer, or a person employed in a Revenue-office, shall not, except with the express permission of the Local Government,—

[Act XLV, 1860, s. 168.] (a) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the acquisition, except for public purposes, of any land or interest in land by purchase, mortgage or otherwise, in the district to which he is appointed or in which he is employed; or

(b) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which may be sold by order of any Revenue-officer or Revenue Court in that district.

(2) The Local Government may delegate to Commissioners or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class or grade of Revenue-officers.

(3) Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, or other law.

140. All powers conferred by this Act on the Local Government or on the Financial Commissioner may be exercised from time to time as occasion requires.

THE SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

Number and year.	Title or subject of Act.	Extent of repeal.
1	2	3
Act VI of 1867	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his government.	The whole.
Act XXXIII of 1871.	The Punjab Land-revenue Act, 1871.	The whole.
Act IV of 1872	The Punjab Laws Act, 1872.	Section 21.
Act XIV of 1875.	The Punjab Judicial Administration Act, 1875.	So much as has not been repealed.
Act XVIII of 1884.	The Punjab Courts Act, 1884.	Section 3 (1), (2), (4), (5), (6) and (7); the whole of Chapter V; the last seventeen words of sub-section (1) of section 67; and section 75.

STATEMENT OF OBJECTS AND REASONS.

THE law relating to the assessment and collection of the land-revenue and other connected subjects is contained in Act XXXIII of 1871. This Act was the first attempt to express in clear and concise language the various rules and orders—based on the “spirit” of the Bengal Regulations—by which the proceedings of Revenue and Settlement officials in the Punjab had,

up to that time, been regulated, and which had acquired the force of law under section 25 of the Indian Councils Act, 1861.

The Act under consideration was framed with great care by Sir James Stephen in consultation with the Financial Commissioner, Mr. (afterwards Sir. R.) Egerton, and the then Lieutenant-Governor, Sir R. H. Davies, both officers of large revenue and settlement experience. But subsequent experience has shown that it is incomplete in some respects and requires amendment in others. Some of the defects in it have recently formed the subject of correspondence with the Government of India, and others have been supplied in the enactments on the same subject which have since been framed for other parts of India. Moreover, the recent orders of the Government of India, based on recommendations of the Famine Commissioners, require that the continuous operations by which village-records are maintained correct to date shall be disconnected from those other occasional proceedings by which the assessment of the land-revenue is revised. And in the endeavour to recast the body of rules which have been issued under the authority of the existing law, with a view to the carrying out of those orders, technical difficulties have arisen which render the amendment of the Act a matter of necessity. The Punjab Tenancy Act, 1868, being under revision at the same time, the Bill has been so framed as to cover the entire jurisdiction of Revenue-officers, whether of a judicial, fiscal or executive character.

CHAPTER I.—PRELIMINARY.

This Chapter contains the necessary definitions—some of which are new and others have been incorporated from the Land-revenue Acts recently passed for other provinces—and a few other preliminary provisions.

CHAPTER II.—REVENUE-OFFICERS AND REVENUE COURTS.

The classification of Revenue-officers and Revenue Courts, the powers taken for the appointment of the former, and the provisions for the superintendence and control of both, differ little from the corresponding provisions of the existing law, which are scattered over three enactments—the Land-revenue Act, 1871, the Judicial Administration Act, 1875, and the Courts Act, 1884.

Section 9 gives a detail of the applications and proceedings which can be disposed of by Revenue-officers as such, and section 10 of those cases which they will deal with in their judicial capacity as Revenue Courts. The classes of cases of which particulars are given in this latter section are, with some not very important variations suggested by the experience of the last two years, taken from section 45 of the Courts Act, 1884; but the list has been supplemented by including in it suits under several new sections of the Bill now before the legislature for the amendment of the Punjab Tenancy Act, 1868. In the Courts Act these suits have been divided into two groups, the first or more important group being reserved exclusively for trial by Deputy Commissioners. But as no such distinction existed before the passing of that Act, and as it has been found to be productive of serious inconvenience, it has been omitted from this Bill. The Local Government will by rule or notification under section 13 determine by what officers or classes of officers these cases will be heard, and the rule adopted will ordinarily, as in former years, be based mainly on the value of the suits.

Experience since the passing of the Courts Act having shown that the subordinate Civil and Revenue Courts do not always succeed in avoiding mistakes as to the respective limits of their jurisdictions, provision has been made in section 11 for obviating by a reference to the Chief Court the inconvenience and expense to the parties of setting aside the proceedings in cases where a Court has acted without jurisdiction, when neither party has been prejudiced by the mistake.

The other provisions of this Chapter which call for special notice are those relating to appeal and revision. The change in jurisdiction to try original revenue suits noted above has necessitated an alteration in the course of appeal, and in place of the somewhat complicated system of appeal laid down in sections 47 and 48 of the Courts Act, the more simple system provided in sections 19 and 20 of the Bill has been devised. Where the order in appeal confirms the original decision, there will be no further appeal; in other cases there will be a further appeal to the Financial Commissioner. By section 22 power has been given to the Financial Commissioner to call for and revise the proceedings of both Revenue-officers and Revenue Courts; as regards the former class of proceedings, this merely continues an authority which he already possesses under section 65 of the Land-revenue Act of 1871. The remaining sections of this Chapter relate to procedure, and for the most part reproduce provisions on the subjects in the Courts Act; where additions have been made, they have been taken from the revenue laws of other provinces.

CHAPTER III.—KÁNÚNGOS, ZAILDÁRS AND VILLAGE-OFFICERS.

The provisions of the existing law respecting these officers are contained in one short section. Those of the Bill are in greater detail, and provide expressly for the levy of a cess for the payment of village-officers, for the administration of the cess so levied, and for the control of these officers. Section 36, which authorizes the levy of this cess, also cures a defect

in the present law by enabling the cess to be charged on the owner's and water-advantage rates.

CHAPTER IV.—RECORDS.

In framing this and the following chapter, the language of the existing law, which describes the framing of a record-of-rights and the assessment of the land-revenue by the term "settlement," has been departed from. These two chapters speak (i) of the preparation and maintenance of certain records for each village, and (ii) of the assessment of land-revenue on the basis furnished by those records. The powers necessary for these purposes are taken in the name of the ordinary Revenue-officers; and it is left open to Government to decide from time to time, as occasion arises, how much of these operations can be carried out by the ordinary district staff, and for what operations special and additional officers should be appointed under the authority provided in section 14.

A record-of-rights has now been provided for every district in the Province. Additions to these records are required from time to time as new estates come into existence. And their occasional revision is necessary, usually in connection with re-assessment operations. Under section 41 of the Bill it will be in the discretion of the Local Government to direct the undertaking of record-operations as occasion arises.

The tendency of recent experience is towards a much greater simplification of these records than any that was aimed at when the Act of 1871 was enacted, and therefore the definition of the contents of the record in section 39 of the Bill is briefer and less elaborate than that set out in section 14 of the existing Act. The existing limitations on the alteration of entries are continued by section 43. Section 44 provides for the prompt confirmation of the record. At present this confirmation is often delayed for a long time, because the operations of record and assessment cannot be dealt with separately.

The presumptions in favour of the title of the Government to waste-lands, forests, mines and minerals, which are asserted by the present law, are continued in sections 45 and 46, and words have been added to the latter section which assert the right of the Government to fisheries in navigable rivers, a right which the State has always possessed.

The provisions relating to village-cesses in section 48 give legal sanction to an authority which the Local Government often exercised in connection with the earlier settlements in the Punjab, which is still occasionally needed, and which is provided in the Land-revenue Acts of other Provinces of Upper India.

The rest of the Chapter relates to partition-proceedings, the record of mutations, and the preparation of the annual papers, and in these respects re-produces for the most part the provisions of the existing law and of the rules made under its authority. The only change of importance is the proposal to discontinue the system prescribed by section 21 of the Punjab Laws Act, 1872, by which all Courts are required to send to the Deputy Commissioner copies of decrees affecting rights in land or the possession thereof. No inconvenience has, it is understood, been experienced in the North-Western Provinces during the last twelve years in consequence of the removal of a provision of this kind from the law applicable to those provinces; and it is believed that, as there the reports of changes of possession which are required to be made by sections 97 and 99 of Act XIX of 1873 have produced the desired effect, so here the somewhat similar provision in section 52 of the Bill will prove equally effective.

CHAPTER V.—ASSESSMENT.

This Chapter is so drafted that while continuing all the provisions of the existing law, it supplies some important omissions in that law and expresses with clearness the procedure which has grown up under it. The opening sections of the Chapter expressly declare that the land-revenue is the first charge on the land, its rents and its produce, and they further provide security against the alienation of the rents and produce until this charge has been satisfied. The absence of any clear provision of this nature has been the cause of some inconvenience during past years. It has not uncommonly happened that a decree-holder has succeeded in attaching rents or produce due to a landowner before the latter has paid his revenue, leaving the Revenue-officers no remedy except that of proceeding against the produce of the next harvest, or against the land itself.

By the procedure laid down in sections 60 to 63 the formality of demanding from the landowners of every estate or their representatives a written engagement accepting the new assessment is dispensed with. But the landowners will still be at liberty to refuse to be liable for the assessment fixed by the Deputy Commissioner, and the consequences of refusal will be the same as those which follow from refusal to accept an assessment under the present law. Refusals of this kind, however, occur so seldom in the Punjab that the really important point in the procedure connected with the giving of effect to revised assessments lies less in the provisions dealing with these refusals than in those contained in sections 61 and 62 of the Bill, which provide for the hearing of objections and appeals, and for the modification of assessments prior to confirmation. In a country of small holdings cultivated by the owners themselves—and this is the prevailing character of Punjab tenures—an owner is very rarely in a position to decline to pay the new assessment; if he thinks that it is too heavy, the only

remedy practically open to him is to appeal against it, and this is the remedy which he has almost invariably adopted.

Section 67 gives a power of converting the dues of a superior landowner, when leviable in kind or cash of varying quantity or amount, into a fixed percentage on the land-revenue. This authority existed prior to the enactment of the present law, and, in a case of some importance which recently came under consideration and was adjusted by compromise in the manner provided for in this section, the absence of this authority caused serious embarrassment both to the Revenue-officers and to those who were liable for the revenue.

CHAPTER VI.—COLLECTION OF LAND-REVENUE.

No very material change has been made in this Chapter in the law relating to the recovery of arrears, but in drafting the sections which deal with this subject an attempt has been made to set forth the several processes which can be resorted to for this purpose and their results in as simple a form as possible. The following are the principal alterations made:—(a) the period during which a defaulter may be imprisoned has been reduced by section 78 from one year to one month; (b) the exemptions from attachment and sale specified in section 266 of the Code of Civil Procedure have been extended by section 79 in the case of revenue defaulters to seed-grain, and to so much of the produce of a defaulter's land as is necessary for the support of himself and his family and the maintenance of his cattle until the harvest next following the execution of the process; (c) in order to render the Chapter complete in itself, the procedure for the sale of a defaulter's land, instead of being dealt with, as in the present Act, by reference to the sections of the Code of Civil Procedure relating to the sale of immovable property, has been set out in full by the incorporation of those sections, with some necessary modifications, in the Bill.

CHAPTER VII.—RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

This Chapter contains provisions for the recovery as arrears of land-revenue of sums due to headmen and other village-officers, and of a number of items of miscellaneous revenue. Almost all that is new in this Chapter is taken from the Revenue and Rent Acts of other provinces.

CHAPTER VIII.—VILLAGE WASTE-LANDS.

The provisions of this Chapter are altogether new, but their general policy is believed to be entirely in accordance with the views of the Government of India. They have been framed with the object of securing in suitable estates the management of a portion of the waste-land for the production of timber, fuel and fodder. The area to be so treated is not to exceed one-fifth of the waste, and power is taken by section 110 to make rules for its management on the part of the landowners. Both the order directing that certain areas shall be reserved for these purposes and the rules for their management will be issued by the Local Government, and provision is made that, before the issue of any such order, objections shall be invited and considered.

CHAPTER IX.—SURVEYS AND BOUNDARIES.

This Chapter contains the usual provisions for facilitating the survey of land for revenue purposes. Similar provisions are to be found in all the Land-revenue Acts of other provinces of Upper India, and these do not therefore seem to call for special notice. Some of the remedies for failure on the part of the landowners to erect and maintain boundary-marks, and the penalties for wilfully destroying, injuring or removing such marks after they have been set up, are of a summary nature, the object being to avoid the necessity for the institution of criminal proceedings except where really required by the gravity of the case.

CHAPTER X.—SUPPLEMENTAL PROVISIONS.

This Chapter deals with matters for which provision could not conveniently be made in other parts of the Bill. Of these the following are the most important. The first is that contained in sections 126 and 127. So long as civil, criminal and revenue jurisdiction was vested in the same officers, the subordinate revenue establishments, from the Tahsildars downwards, were at the disposal of the Courts for the execution of processes relating to land and its produce. But civil and revenue jurisdiction now vests, for the most part, in separate officers; and consequently the officers presiding over Civil Courts have no longer at their command any organized agency by which those processes can be executed. The object of these sections is to supply this deficiency by continuing the practice which existed before the passing of the Courts Act of 1884. By them the orders of Civil Courts relating to land and the rents and produce thereof will, as before, be executed by the Revenue-officers and their establishments, and the necessity for creating a separate agency for this purpose will be avoided.

By another section (128) the same power is given to a Revenue-officer, in cases of dispute, of dividing produce between co-sharers, as that which has always been possessed by him for the division of produce between landlord and tenant.

Section 129 confers the powers to make rules which are necessary for the proper working of the Act, and section 132 defines the matters in regard to which the jurisdiction of the Civil Courts will be barred. No material change has been made in respect of either of these subjects.

In section 133 provision has been made to meet the uncertainties attaching to jurisdiction in cases relating to alluvial lands on the larger rivers where they form the boundary between districts.

Lastly, section 134 declares that all records and papers which a village-officer is required by law to prepare and keep shall be the property of Government, and makes suitable provision for their production and proof. The object of this section is to render unnecessary the inconvenient practice of summoning patwāris merely for the purpose of proving the authenticity of papers prepared or kept by them.

The 12th July, 1886.

W. G. DAVIES.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 24, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th July, 1886, and was referred to a Select Committee:—

NO. 12 OF 1886.

A Bill to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to substitute a new Part for Part III of the First Schedule to the

Indian Ports Act, 1875, of the nature hereinafter ^{XII} of 1875. appearing; It is hereby enacted as follows:—

Substitution of a new Part for Part III of the First Schedule to the Indian Ports Act, 1875.

1. For Part III of the First Schedule to the said Act the Part in the Schedule to this Act shall be substituted.

2. Any document referring to Part III of the First Schedule to the Indian Ports Act, 1875, shall, so far as the document is consistent with the Part in the Schedule to this Act, be construed to refer thereto. ^{XII} of 1875.

Repeal of Act IV of 1881.

3. The Madras Port-dues IV of 1881. Act, 1881, is hereby repealed.

PART III.—THE MADRAS PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
Madras	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i>	
<i>Eastern Group.</i>		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
1. Ganjam	Ditto	(b) In the case of any other foreign ship or steamer calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
2. Gopālpur	Ditto	(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
3. Calingapatam	Ditto	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
4. Bimlipatam	Ditto		
5. Vizagapatam	Ditto		
6. Cocanada	Ditto		
7. Coringa	Ditto		
8. Masulipatam	Ditto		
9. Cuddalore	Ditto		
10. Porto Novo	Ditto		
11. Tranquebar	Ditto		
12. Negapatam	Ditto		
13. Nagore	Ditto		
14. Pāmban	Ditto		
15. Tuticorin	Ditto		
16. Sonapore	Ditto		
17. Bāruva	Ditto		
18. Pūndi	Ditto		
19. Bapanapadu	Ditto		
20. Conada	Ditto		
21. Pudimadaka	Ditto		
22. Pentakota	Ditto		
23. Uppada	Ditto		
24. Bendamanlanka	Ditto		
25. Narsāpur	Ditto		
26. Perūpalem	Ditto		
27. Penumudi	Ditto		
28. Moratota	Ditto		
29. Nagayalanka	Ditto		
30. Kottapalem	Ditto		
31. Gangadipalem	Ditto		
32. Nizampatam	Ditto		
33. Ipurupālem	Ditto		
34. Badduranipalem	Ditto		
35. Motupalli	Ditto		
36. Kanuparti	Ditto		
37. Kottapatam	Ditto		
38. Itamukkala	Ditto		
39. Pākala	Ditto		
40. Ramayapatam	Ditto		
41. Connayapalem	Ditto		
42. Tummalapenta	Ditto		
43. Juvaladinne	Ditto		
44. Iskapalle	Ditto		
45. Ponnepudi	Ditto		
46. Mypaud	Ditto		
47. Kistnapatam	Ditto		
48. Pamanji	Ditto		
49. Tupili	Ditto		
50. Dugarāzpatnam	Ditto		
51. Pūdi	Ditto		
52. Pulicat	Ditto		
53. Ennore	Ditto		
54. Covelong	Ditto		
55. Merkanam	Ditto		
56. Thirumalavāsel	Ditto		
57. Kodimpalliē	Ditto		
58. Velanganī	Ditto		
59. Thopputorai	Ditto		
60. Point Calimere	Ditto		
61. Muttupettai	Ditto		
62. Adirāmpatnam	Ditto		
		<i>Coasting Vessels.</i>	
		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
		(f) In the case of a coasting steamer—	
		(1) calling at one or more ports in the Eastern group (save as provided by sub-clause (3) of this clause), or at one or more ports in the Western group, not exceeding three annas a ton;	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
		(2) calling at Madras within thirty days after payment of a due in either group, not exceeding one and a half annas a ton;	The due is payable on each entry into the port.
		(3) calling at Madras otherwise than as provided in sub-clause (2) of this clause, not exceeding four and a half annas a ton.	The payment of the due will exempt the steamer for a period of thirty days from liability to pay the due again at Madras or at any port in the Eastern group.

PART III.—THE MADRAS PRESIDENCY—*contd.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
<i>Eastern group—contd.</i>		<i>Foreign Vessels.</i>	
63. Ammapatam ...	Seagoing vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
64. Kristnajiapatam ...	Ditto	(b) In the case of any other foreign ship or steamer calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
65. Kattumavadi ...	Ditto		
66. Kottaiapatam ...	Ditto	(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
67. Gopalapatam ...	Ditto		
68. Sundrapandiapatam ...	Ditto	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
69. Pasipatam ...	Ditto		
70. Damodarapatam ...	Ditto	(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
71. Tondi ...	Ditto		
72. Nambidalai ...	Ditto	(f) In the case of a coasting steamer—	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
73. Pudupatam ...	Ditto		
74. Carungudu ...	Ditto	(1) calling at one or more ports in the Eastern group (save as provided by sub-clause (3) of this clause), or at one or more ports in the Western group, not exceeding three annas a ton;	The due is payable on each entry into the port.
75. Tirupalakudi ...	Ditto	(2) calling at Madras within thirty days after payment of a due in either group, not exceeding one and a half annas a ton;	
76. Devipatam ...	Ditto	(3) calling at Madras otherwise than as provided in sub-clause (2) of this clause, not exceeding four and a half annas a ton.	The payment of the due will exempt the steamer for a period of thirty days from liability to pay the due again at Madras or at any port in the Eastern group.
77. Mudiapatam ...	Ditto		
78. Attangarai ...	Ditto		
79. Pillaimadam ...	Ditto		
80. Emanagudu ...	Ditto		
81. Ramesvaram ...	Ditto		
82. Mandapam ...	Ditto		
83. Vedalai ...	Ditto		
84. Marakayapatam ...	Ditto		
85. Muttupettai ...	Ditto		
86. Kilakarai ...	Ditto		
87. Eruvadi ...	Ditto		
88. Valinokam ...	Ditto		
89. Vaippar ...	Ditto		
90. Koilpatam ...	Ditto		
91. Kulasekharapatnam ...	Ditto		
<i>Western Group.</i>			
1. Mangalore ...	Ditto		
2. Cannanore ...	Ditto		
3. Tellicherry ...	Ditto		
4. Calicut ...	Ditto		
5. Beypore ...	Ditto		
6. Cochin ...	Ditto		
7. Badagara ...	Ditto		
8. Quilandi ...	Ditto		
9. Ponani ...	Ditto		
10. Attaprom ...	Ditto		
11. Kurkuye ...	Ditto		
12. Madayi ...	Ditto		
13. Attukuye ...	Ditto		
14. Chowghat ...	Ditto		
15. Velliangode ...	Ditto		
16. Kuttayi ...	Ditto		
17. Parony ...	Ditto		
18. Tanur ...	Ditto		
19. Parpanangadi ...	Ditto		
20. Cadalondi ...	Ditto		
21. Molankadava ...	Ditto		
22. Pudiangadi ...	Ditto		
23. Ellatur ...	Ditto		
24. Kapat ...	Ditto		
25. Kollam ...	Ditto		
26. Cuddalore ...	Ditto		
27. Trikodi ...	Ditto		
28. Kottakal ...	Ditto		
29. Muttungal ...	Ditto		

PART III.—THE MADRAS PRESIDENCY—*concl'd.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable respect of same vessel.
<i>Western Group—contd.</i>			
30. Chombayi	Seagoing vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i> (a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
31. Kallai	Ditto	(b) In the case of any other foreign ship or steamer calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
32. Talai	Ditto		
33. Dharmapatnam	Ditto		
34. Egara	Ditto		
35. Pudiangadi	Ditto	(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
36. Baliapatam	Ditto		
37. Etticollam	Ditto		
38. Kawai	Ditto	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
39. Katkacheri	Ditto		
40. Bekal	Ditto		
41. Kásaragóđ	Ditto		
42. Kumbla	Ditto	<i>Coasting Vessels.</i> (e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
43. Manjeshwara	Ditto		
44. Mulki	Ditto		
45. Padubidri	Ditto	(f) In the case of a coasting steamer—	
46. Yermal	Ditto	(1) calling at one or more ports in the Eastern group (save as provided by sub-clause (3) of this clause), or at one or more ports in the Western group, not exceeding three annas a ton;	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
47. Uchil	Ditto		
48. Kap	Ditto		
49. Uddyavar	Ditto		
50. Malpe	Ditto	(2) calling at Madras within thirty days after payment of a due in either group, not exceeding one and a half annas a ton;	The due is payable on each entry into the port.
51. Bárkúr, or Hangarkotta.	Ditto		
52. Kundapura	Ditto		
53. Baindur	Ditto	(3) calling at Madras otherwise than as provided in sub-clause (2) of this clause, not exceeding four and a half annas a ton.	The payment of the due will exempt the steamer for a period of thirty days from liability to pay the due again at Madras or at any port in the Eastern group.
54. Naikinkatta	Ditto		
55. Serur	Ditto		

Definitions.

In this Part of the Schedule—

(1) "ship" means a sailing vessel, and "steamer" a steam-vessel:

- (2) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port on the continent of India or in the island of Ceylon:
- (3) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.

NOTE.—As regards the levy of port-dues, each of the following pairs of ports (namely), Cocanada and Coringa, Negapatam and Nagore, Calicut and Beypore, shall be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the charge on entering the other of the same pair.

STATEMENT OF OBJECTS AND REASONS.

THE case which gives rise to this Bill is as follows. Certain steamers are engaged in the coasting trade of the Madras Presidency, but are not "coasting steamers" within the meaning of the expression as defined in Part III of the Schedule to the Indian Ports Act, 1875. Therefore they have to pay port-dues at every port they call at in a group instead of only paying them (at a rate which may be half as much again as an ordinary single rate) at the first port they call at and being free at every other port in the group for a period of thirty days. The owners of these steamers have represented to the Government that the levy of these full port-rates at every port the steamers call at is a considerable hardship and is detrimental to the trade which their steamers are fostering, and they have asked that their steamers may be treated as coasting steamers. The Government of India is of opinion that the law, as it stands at present, bears hardly not only on these steamers engaged in the coasting trade, but also on other steamers and sailing vessels, and that the law should be amended generally for all vessels calling at ports in the Madras Presidency. The present Bill has, therefore, been prepared in consultation with the local authorities and Chamber of Commerce. With the object of settling the port-dues on as fair and liberal a basis as is consistent with obtaining a sufficient income, the Bill recasts Part III of the First Schedule to the Indian Ports Act on the following lines:—

(1) It declares that the following rates of duty shall be paid in the case of vessels calling at one port only, namely:—

- (a) in the case of foreign ships or steamers calling at Madras or at any port in the Eastern or Western group—a rate not exceeding three annas a ton;
- (b) in the case of coasting ships calling at any port—a rate not exceeding one and a half annas a ton;
- (c) in the case of coasting steamers calling at Madras (except within thirty days after visiting another port in either group, when the due is not to exceed one and a half annas a ton)—a due not exceeding four and a half annas a ton.

(2) It exempts, on payment of the above dues, foreign ships or steamers engaged in trade with the Straits Settlements and coasting ships from liability to pay dues again at the same port for a period of sixty days.

(3) It exempts the following vessels on payment of the dues specified from payment of any further due at the same or certain other ports for a fixed period:—

- (a) foreign ships or steamers engaged in trade with the Straits Settlements, on payment of a due not exceeding four and a half annas a ton at the first port in the Eastern group or in the Western group called at by the ship or steamer, from liability to pay the due again at that or any other port in the group for a period of sixty days;
- (b) coasting steamers, on payment of a due not exceeding three annas a ton at the first port in the Eastern group or in the Western group called at by the steamer, from liability to pay the due again at that or any other port in the group for a period of thirty days;
- (c) coasting steamers, on payment of a due not exceeding four and a half annas a ton at Madras, from liability to pay the due again at Madras or at any port in the Eastern group for a period of thirty days.

A. COLVIN.

The 29th June, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th July, 1886, and was referred to a Select Committee on the 14th idem:—

NO. 13 OF 1886.

A Bill to amend the Indian Companies Act, 1882.

WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows:—

1. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely:—

“200A. (1) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—

Wages and salaries to be preferential claims and to rank equally.

“(a) all wages or salary of any clerk or servant [Indian Bankruptcy Bill, s. 33, cls. (b) and (c): 55 Law J. Rep. Q. B. 288.] in respect of services rendered to the company within the four months next before the commencement of the winding up, not exceeding five hundred rupees for each clerk or servant; and

“(b) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the four months next before the commencement of the winding up.

“(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

“(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or liquidators or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or liquidators or official liquidator.”

STATEMENT OF OBJECTS AND REASONS.

THE attention of the Government of India has been drawn, by a recent decision of Mr. Justice Scott of the Bombay High Court (I. L. R. 10 Bom. 211), to the absence of any provision in the Indian Companies Act, 1882 (Act VI of 1882), similar to that contained in section 4 of the Statute 46 & 47 Vic., cap. 28, under which, in the distribution of the assets of any company being wound up, the wages of clerks and workmen are, subject to certain restrictions, given priority over other debts. With the view of remedying this defect in the Indian law, the present Bill has been prepared. While following generally the lines of the English Statute, the Bill adopts the modifications of the law regarding the priority of the wages of workmen, in the case of the bankruptcy of private employers, made by section 40 of the English Bankruptcy Act, 1883 (46 & 47 Vic., cap. 52). As these provisions of the English Bankruptcy Act have been followed in the Indian Bankruptcy Bill now before the Legislative Council of the Governor General, it seems desirable that the amendment which this Bill makes in the Indian Companies Act should be drawn so far as possible in identical terms.

C. P. ILBERT.

The 7th July, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th July, 1886, and was referred to a Select Committee :—

NO. 14 OF 1886.

THE PUNJAB LAND-REVENUE BILL.

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A Bill to declare and amend the Land-revenue Law of the Punjab.

WHEREAS it is expedient to amend the law in force in the Punjab with respect to the powers of Revenue-officers and Revenue Courts, the maintenance of records-of-rights in land, the assessment and collection of land-revenue, and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, local extent and commencement. 1. (1) This Act may be called the Punjab Land-revenue Act, 1886. [Act XXXIII, 1871, s. 1.]

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the Punjab and its Dependencies; including the pargana of Spiti, but not so as to affect any Regulation made under the provisions of the Statute 33 Victoria, chapter 3, for any portion of those territories; and [Regulation I of 1873, s. 14.]

(3) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may by notification appoint in this behalf.

(4) Any power conferred on the Local Government or the Financial Commissioner to make rules, or on the Local Government to issue orders, make appointments or confer powers, may be exercised at any time after the passing of this Act; but a rule, order, appointment or power so made, issued or conferred shall not take effect till the commencement of this Act.

2. (1) The enactments mentioned in the schedule to this Act are repealed to the extent specified in the third column thereof.

(2) But all rules, appointments and assessments made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records framed, revised or confirmed, rights acquired, liabilities incurred, and times and places appointed under any of the repealed enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred and appointed under this Act; and

(3) All suits, appeals, applications and proceedings instituted, made or commenced under any of those enactments and pending at the commencement of this Act shall be deemed, so far as may be, to have been instituted, made and commenced under this Act.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "land" means land assessed or liable to be assessed to land-revenue, or whereof the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, and all land the property of Government not within the site of any town or village: [Act XVIII, 1884, s. 3.]

(2) "estate" means any area—

(a) for which a separate record-of-rights has been framed; or [Act XXXIII, 1871, s. 1; Act XIX, 1873, s. 3; and Act VIII, 1879, s. 2.]

The Punjab Land-revenue Bill.
(Chapter I.—Preliminary.—Sections 4-9.)

CHAPTER II.

REVENUE-OFFICERS AND REVENUE COURTS.

Classes and Powers.

5. There shall be the following classes of Revenue-officers, namely:—
Classes and grades of Revenue-officers. [Act 1871, 1881, and 6.]

- (a) the Financial Commissioner, who shall, subject to the control of the Local Government, be the chief controlling revenue-authority;
- (b) the Commissioner, who shall be the chief revenue-authority within a division;
- (c) the Deputy Commissioner, who shall be the chief revenue-authority within a district; and
- (d) subordinate Revenue-officers, who may be ranged in the following grades, namely:—
 - (i) the Assistant Commissioner;
 - (ii) the Extra Assistant Commissioner;
 - (iii) the Tahsildar; and
 - (iv) the Naib-tahsildar.

6. (1) The Financial Commissioner shall be appointed and may be removed by the Local Government with the previous sanction of the Governor General in Council.

(2) The Local Government may, with the like sanction, appoint a second Financial Commissioner, who shall hold his office during the pleasure of the Local Government.

(3) When a second Financial Commissioner is appointed, the Local Government may make rules as to the distribution of business between the two Financial Commissioners.

7. (1) Commissioners, Deputy Commissioners, Assistant Commissioners and Extra Assistant Commissioners shall be appointed and may be removed by the Local Government.

(2) The Local Government may, if it thinks fit, appoint the same person to be Deputy Commissioner of two or more districts.

8. The Local Government shall fix the number of Tahsildars and Naib-tahsildars to be appointed, and when there is a vacancy in that number the Financial Commissioner may, subject to rules made by him with the previous sanction of the Local Government, appoint such person to fill the vacancy as he thinks fit.

9. Applications and proceedings of the following classes shall be disposed of by Revenue-officers, and not otherwise:—
Applications and proceedings exclusively cognizable by Revenue-officers.

- (a) proceedings relating to the enhancement and reduction of rents under sections 10, 14, 15, 16 and 17 of the Punjab Tenancy Act, 1886;
- (b) applications under sections 11 and 12 of that Act for the commutation and conversion of rents;
- (c) proceedings relating to the remission and suspension of rent under section 19 of that Act;

(b) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed; or

(c) which the Local Government may, by general rule or special order, declare to be an estate:

(3) "tenant," "landlord," "rent," "arrear of rent" and "tenancy" have the meanings respectively assigned to those expressions in the Punjab Tenancy Act, 1886:

[Cf. Act VIII, 1879, ss. 11 and 12.] (4) "landowner" includes any person, other than a tenant, in possession of an estate or any share or portion thereof, or in enjoyment of any part of the profits of an estate:

(5) "holding" means a share or portion of an estate held by one landowner or jointly by two or more landowners:

(6) "arrear of land-revenue" means land-revenue which remains unpaid after the date on which it becomes payable:

(7) "defaulter" means a landowner liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear:

(8) "village-officer" includes a chief-headman, a headman and a patwari:

V of 1878. XX of 1883. (9) "village-cess" includes any cess other than the cess or other impost leviable under this Act for the maintenance of village-officers, and (b) any rate, tax or fees leviable under the Punjab Local Rates Act, 1878, or Punjab District Boards Act, 1883:

[Act XVIII, 1881, s. 4.] (10) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may in the case of any local area appoint:

[Act XIX, 1873, s. 3, and rules under Act XXXIII, 1871, F II 28.] (11) "incumbrance" means a charge upon or claim against land arising out of a private grant or contract:

[Cf. Act XVIII, 1881, s. 4.] (12) "recognized agent" means a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in the proceeding, or belonging to any class which the Local Government may by notification authorize in this behalf:

[Cf. Act XVIII, 1881, s. 4.] (13) "legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue-agent: and

(14) "notification" means a notification published by authority of the Local Government in the official Gazette.

[Act VI, 1867; Act XIX, 1873, s. 14; and Act X, 1882, s. 7.] 4. The Local Government may vary the limits of the tahsils, districts and divisions into which the territories administered by it are divided, and may alter the number of those tahsils and, with the previous sanction of the Governor General in Council, the number of those districts and divisions.

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- (d) applications under sections 20, 21 and 22 of that Act with respect to the division of produce and the estimate and appraisement of crops;
- (e) applications under section 23 of that Act with respect to relinquishment of tenancies;
- (f) applications under section 25 of that Act for determination of rent payable for land occupied by crops uncut at the time of an order being made for the ejectment of a tenant;
- (g) applications under sections 27 and 28 of that Act for ejectment of tenants having a right of occupancy;
- (h) applications under section 29 of that Act for the service of notices of ejectment on, and the ejectment of, tenants not having a right of occupancy;
- (i) applications under section 30 of that Act for the ejectment of tenants not having a right of occupancy;
- (j) applications under section 34 of that Act for the fixing of the value of a right of occupancy;
- (k) applications under sections 34 and 36 of that Act for the ejectment of a tenant or other person in occupation of land subject to a right of occupancy sought to be transferred;
- (l) proceedings relating to the award of compensation for improvements or disturbance under Chapter VI of that Act; and
- (m) applications and proceedings which a Revenue-officer is by this Act empowered to dispose of.

10. (1) Suits of the classes described in sub-section (3) of this section shall be instituted before, and heard and determined by, Revenue-officers and not otherwise.

(2) When a Revenue-officer is exercising jurisdiction with respect to a suit of any of those classes, or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(3) The classes of suits referred to in this section are the following, namely:—

- (a) suits for arrears of rent on account of land, or of any payments due on account of rights of pasturage, forest-rights, fisheries or the like;
- (b) suits for the recovery of any over-payment of rent;
- (c) suits for sums payable by co-sharers on account of land-revenue or of village-expenses or other dues for which the co-sharers in an estate or holding are, as such, responsible;
- (d) suits by co-sharers for their share of the profits of an estate or part thereof after payment of the land-revenue and village-expenses and other dues, or for a settlement of accounts;
- (e) suits by assignees of land-revenue for arrears of land-revenue due to them as such;
- (f) suits by superior proprietors for arrears of land-revenue or other sums due to them as such;
- (g) suits to establish a claim to a right of occupancy, or to prove that a tenant has not a right of occupancy;

- (h) suits to eject a tenant from land on the ground that he has used the land in a manner inconsistent with the conditions on which he holds it, or on the ground that he has omitted to use the land in the manner required by those conditions;
- (i) suits under section 29 of the Punjab Tenancy Act, 1886, to contest liability to be ejected when notice of ejectment has been served;
- (j) suits under section 9 of the Specific Relief Act, 1877, to recover possession of land, or by a tenant otherwise than under that Act to recover the occupancy of land of which he has been wrongfully dispossessed;
- (k) suits for compensation for wrongful dispossession from a tenancy;
- (l) suits relating to the alienation of, or succession to, a right of occupancy in a tenancy;
- (m) suits to determine disputes regarding boundaries of land which have been fixed by a Court or Revenue-officer or defined in a record-of-rights; and
- (n) suits between landlord and tenant, as such, or between tenant and tenant, as such, which have not been specified in the foregoing part of this section.

11. (1) In either of the following cases, [New. Cf. Act XII, 1881, s. 205.] namely:—
 (a) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 10, which, under the provisions of that section, should have been heard and determined by a Revenue Court, or

(b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the Chief Court.

(2) If on perusal of the record it appears to the Chief Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the Chief Court may direct that the decree be registered in the Court which had jurisdiction; and thereafter it shall have effect as if it had been made by that Court.

(3) With respect to any proceedings subsequent to the decree, the Chief Court may make such order for their registration in, or transfer to, a Revenue Court or Civil Court as in the circumstances appears to it to be just and convenient to the parties.

(4) If it appears to the Chief Court, otherwise than on submission of a record under this section, that a Civil Court under its control has determined a suit of a class mentioned in section 10, which, under the provisions of that section, should have been heard and determined by a Revenue Court, the Chief Court may pass any order which it might have passed if the record had been submitted to it under the foregoing provisions of this section.

12. There shall be the same classes and grades [Act XXXIII, Classes and grades of of Revenue Courts as of 1871, s. 2; and Revenue Courts. Revenue-officers, namely:— Act XVIII, 1884, s. 3 (2).]

(a) the Court of the Financial Commissioner;

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- (b) the Court of the Commissioner;
(c) the Court of the Deputy Commissioner;
and
(d) the Courts of subordinate Revenue-officers, which may be ranged in the following grades, namely:—
(i) the Court of the Assistant Commissioner;
(ii) the Court of the Extra Assistant Commissioner;
(iii) the Court of the Tahsildar; and
(iv) the Court of the Naib-tahsildar.

13. (1) Except where, in the case of a Revenue-officer, the class of the officer by whom any function is to be discharged is expressly stated in this Act, the Local Government may by rule or notification determine the powers to be exercised by any Revenue-officer or Revenue Court.

[Cf. Act XVIII, 1884, s. 26 (1).] (2) The powers may be determined with reference to the class or value of cases or otherwise as the Local Government thinks fit.

(3) The Local Government may confer powers on a person by name or by virtue of his office, and on any class or grade of Revenue-officers or Revenue Courts by designation of the class or grade.

[Cf. Act IX, 1883, s. 3 (9).] (4) The expression "prescribed Revenue-officer" in any provision of this Act means a Revenue-officer empowered by the Local Government to discharge the functions of a Revenue-officer under that provision.

[Cf. Act XVIII, 1884, s. 28.] 14. (1) The Local Government may, with respect to particular classes of cases or cases generally in any local area, appoint any person to be a Revenue-officer of any class specified in clause (b), clause (c) or clause (d) of section 5, and may suspend or cancel the appointment.

(2) When a person is so appointed to be a Revenue-officer of any one of those classes, he shall, subject to the orders of the Local Government, be deemed to be a Revenue-officer of that class for all purposes.

Administrative Control.

[Cf. Act XVIII, 1884, s. 56.] 15. (1) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner.

[Act XVIII, 1884, s. 56.] (2) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers and Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner, a Deputy Commissioner shall control all other Revenue-officers and Revenue Courts in his district.

[Cf. Act XVIII, 1884, s. 58.] 16. The Financial Commissioner or a Commissioner or Deputy Commissioner may by written order direct that any business cognizable by any Revenue-officer or Revenue Court under his control shall be distributed in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any officer or Court to exercise any powers or deal with any business beyond the limits of his or its proper jurisdiction.

17. (1) The Financial Commissioner or a Commissioner or Deputy Commissioner may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or refer it for disposal to any other Revenue-officer under his control and having power to dispose of the same.

(2) A Commissioner or Deputy Commissioner may exercise, as regards the Revenue Courts under his control, the same powers as he may exercise under sub-section (1) as regards the Revenue-officers under his control.

18. A Deputy Commissioner may, with the previous sanction of the Local Government, delegate to any Assistant Commissioner in his district the powers conferred on the Deputy Commissioner by sections 15, 16 and 17, to be exercised by the Assistant Commissioner in any specified part of the district, subject to the control of the Deputy Commissioner.

Appeal, Review and Revision.

19. An appeal shall lie from any order made on an application or other proceeding mentioned in section 9, or from any decree or order made in a suit described in section 10—

(a) to the Deputy Commissioner when the order or decree is made by a subordinate Revenue-officer;

(b) to the Commissioner when the order or decree is made by a Deputy Commissioner;

(c) to the Financial Commissioner when the order or decree is made by a Commissioner:

Provided that—

(a) when the original order or decree of a Revenue-officer or Revenue Court is confirmed on appeal, a further appeal shall not lie;

(b) when any such order or decree is modified or reversed on appeal, a further appeal shall lie to the Financial Commissioner; and

(c) an appeal shall not lie from a decree or order made in a suit under section 9 of the Specific Relief Act, 1877, to recover possession of land.

20. (1) Except as provided by sub-section (2) of this section, an appeal shall not lie—

(a) in the Court of the Deputy Commissioner—after the expiration of thirty days from the date of the order or decree complained of;

(b) in the Court of the Commissioner—after the expiration of sixty days from that date; or

(c) in the Court of the Financial Commissioner—after the expiration of ninety days from that date.

(2) In computing these periods of thirty, sixty and ninety days, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

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VIII, 26.] 21. (1) Subject to the other provisions of this Chapter, the Financial Commissioner may modify or reverse any order passed by himself or his predecessor in office, and

any other Revenue-officer may, with the previous sanction of the Revenue-officer to whose control he is immediately subject, modify or reverse any order passed by himself or his predecessor in office.

(2) A decree or order of a Revenue Court may be reviewed in accordance with the procedure prescribed for that Court by or under this Act, and not otherwise.

XIII, 65; X, 253; Act 1881, and Court subordinate to him. 22. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court.

(2) A Commissioner or Deputy Commissioner may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control.

(3) If in any case in which a Commissioner or Deputy Commissioner has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under sub-section (1) or reported to him under sub-section (3) pass such order as he thinks fit:

Provided that he shall not under this section pass an order affecting any question of right between private persons without having given the parties interested an opportunity of being heard.

Procedure.

XIX, 208.] 23. (1) A Revenue-officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business.

(2) A person so summoned shall be bound to attend at the time and place mentioned in the summons, either in person or by his recognized agent or a legal practitioner, as the Revenue-officer or Revenue Court may direct, and to state the truth upon any subject respecting which he is examined or makes statements, and to produce such documents and other things as the Revenue-officer or Revenue Court may require.

(3) A summons issued by a Revenue-officer or Revenue Court shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him (b) on his recognized agent or the manager or agent through whom he usually transacts business, or (c) on an adult male member of his family usually residing with him.

(4) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by fixing up a copy thereof at the usual place of residence of the person to whom it is addressed, or, if he does not reside in the district but has an interest in land therein, by posting a copy in some conspicuous place in the village in which the land is situate.

(5) If the summons relates to a case in which two or more persons are jointly concerned, the service may, if the Revenue-officer or Revenue Court so directs, be made on one of those persons for himself and for the other or others.

(6) If the Revenue-officer or Revenue Court is satisfied that service can be more conveniently made through the post by registered letter, or by any other method prescribed in the Code of Civil Procedure for the service of a summons, the XIV of 1882. summons may be so served.

24. A notice or order issued by a Revenue-officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

25. In addition to any other mode of publication which may be prescribed in any provision of this Act, a proclamation issued by a Revenue-officer or Revenue Court shall be made by beat of drum or other customary method, and by the posting of a copy of the proclamation, in the language of the office or Court, in a conspicuous place on the property to which the proclamation relates.

26. Appearances before a Revenue-officer or Revenue Court, and applications to, and acts to be done before, any such officer or Court, may be made or done—

(a) by the parties themselves, or

(b) with the permission of the officer or Court, by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer or Court.

27. The fees of a legal practitioner shall not be allowed as costs, before any Revenue-officer or Revenue Court, unless that officer or Court considers, for reasons to be recorded by him or it in writing, that the fees should be allowed.

28. (1) Subject to the other provisions of this Act, the Local Government may by order invest any Revenue-officer with any powers exercisable by a Civil Court under the Code of Civil Procedure, and may direct that any provisions of that Code shall apply with or without modification to all or any classes of cases before Revenue-officers.

(2) Subject to any orders made by the Local Government under sub-section (1), that Government may make rules consistent with this Act for regulating the procedure of Revenue-officers in cases in which a procedure is not prescribed by this Act.

(3) Subject to any orders or rules made under sub-section (1) or sub-section (2), a Revenue-officer may refer any case which he is empowered to dispose of under section 9 to any Revenue-officer under his control for investigation and report, and may decide the case upon the report.

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(Chapter IV.—Records.—Sections 29-38.)

[Act XVIII, 1884, s. 53.] **29.** (1) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby; and may, by any such rule, direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue Courts.

XIV of 1882.

(2) Until rules are made under this section, and subject to those rules when made and to the provisions of this Act,—

(a) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the Court of the Financial Commissioner shall, in respect of those cases, be deemed to be the High Court within the meaning of the said Code, and shall exercise, as regards the Courts under its control, all the powers of a High Court under that Code.

[Act XVIII, 1884, s. 54.]

30. (1) If, in any suit pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Revenue Court (if any) to the control of which it is immediately subject, by order in writing, require any party to the suit to institute, within such time as it may fix in this behalf, a suit in the Civil Court with a view to obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall, in disposing of the suit pending before it, be guided by the final decision of the Civil Court of first instance or appeal, as the case may be, on that question.

Supplemental Provisions.

31. (1) The Local Government may fix the place or places at which any Revenue-officer or Revenue Court is to transact business.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the officer or Court.

(3) Except as may be otherwise provided by an order under this section, a Revenue-officer or Revenue Court may transact business at any place within those limits.

32. The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

[Act XIX, 1873, s. 21; Act XVIII, 1881, s. 12.]

33. When a Revenue-officer, not being a person appointed under section 14, is transferred from one local area in which he has jurisdiction to another, he shall, unless the Local Government otherwise directs, exercise in

the local area to which he is transferred all the powers which he was legally competent to exercise as a Revenue-officer or Revenue Court in the local area from which he is transferred.

34. When a Deputy Commissioner dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Deputy Commissioner under this Act.

CHAPTER III.

KÁNÚNGOS, ZAILDÁRS AND VILLAGE-OFFICERS.

35. The Financial Commissioner may, with the previous sanction of the Local Government, make rules to regulate the appointment, duties, remuneration, punishment, suspension and removal of kánungos, zaildárs and village-officers.

36. (1) The Local Government may by notification impose on any estate in any local area, a cess, to be called the village-officers' cess, at a rate not exceeding one anna for every rupee of the annual value for the remuneration of village-officers and for the defrayment of other expenditure directly connected with the supervision of those officers or with the performance of their duties:

Provided that all arrangements now in force in any local area for the purposes mentioned in this sub-section shall be deemed to have been lawfully made, and shall be maintained until the Local Government imposes the village-officers' cess in that local area under this section.

(2) "Annual value" in this section has the meaning assigned to that expression in the Punjab District Boards Act, 1883.

(3) The Financial Commissioner, with the previous sanction of the Local Government, may make rules for the administration of the proceeds of the village-officers' cess.

37. (1) The remuneration of a zaildár or village-officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court.

(2) Every assignment of, and every charge on, and every agreement to assign or charge, any such remuneration shall be void.

CHAPTER IV.

RECORDS.

Record-of-rights.

38. Save as otherwise provided by this Chapter, a separate record-of-rights shall be made and maintained for each estate.

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XXXIII, Documents to be in- 39. The record-of-rights
s. 14.] cluded in record-of- for an estate shall include
rights. the following documents :—

(a) statements showing, so far as may be practicable,—

(i) the persons who have rights in the estate or in any share or portion thereof, whether as landowners or tenants or in any other capacity, and the persons who are entitled to enjoy the rent, land-revenue or produce of the estate or of any share or portion thereof;

(ii) the extent and limits of the interests of those persons, and the conditions and liabilities attaching to those interests; and

(iii) the rent, land-revenue, rates, cesses or other payments due from and to each of those persons and to the Government;

(b) a statement of customs respecting joint rights and liabilities in the estate;

(c) a map of the estate in sufficient detail to illustrate the foregoing statements; and

(d) such other documents as the Financial Commissioner, with the previous sanction of the Local Government may prescribe.

XXXIII, 40. The Financial Commissioner shall prescribe
s. 15; Language, form and the language in which the
XIX, attestation of record-of- record-of-rights is to be
s. 90; rights. made, the form of the do-
XVIII, cuments included in it, and the manner in
s. 80.] which these documents are to be prepared, signed
and attested.

XXXIII, 41. (1) When it appears to the Local Govern-
ss. 7 and ment that a record-of-rights
Local Government may direct record-of-rights to for an estate does not exist,
be made or revised. or that the existing record-
of-rights for an estate requires revision, it may by
notification direct that a record-of-rights be made
or that the record-of-rights be revised, as the case
may be, and may further direct by the notification
that for that purpose a survey be made.

(2) The notification may be with respect to records-of-rights generally for all or any estates for which they are to be made or revised in any local area.

(3) The notification shall, with respect to the local area to which it relates, be held, for the purposes of section 62 of the Punjab Courts Act, 1884, to be a notification declaring a settlement of land-revenue to be in progress in that local area.

XIX, 42. If during the making or revision of a re-
s. 67.] cord-of-rights a dispute arises
Determination of dis- as to any matter of which an
putes. entry is to be made therein, the prescribed Re-
venue-officer may of his own motion, but subject
to the provisions of the next following section,
and after such inquiry, if any, as he thinks fit,
determine the entry to be made as to that matter.

XXXIII, 43. When a record-of-
s. 19.] rights is under revision it
shall not be altered otherwise than by—

(a) making an entry in accordance with facts which have occurred since the record under revision was made or last revised;

(b) making such entries as are agreed to by all the parties interested therein, or are supported by a judicial decision;

(c) making new maps, where it is necessary to make them, and so amending such of the documents included in the record as are affected thereby that they may accord with those maps:

Provided that an entry as to the rights, interests or liabilities of a person shall not be altered except in the circumstances referred to in clause (a) or clause (b) of this section.

44. (1) A report of the completion of every record-of-rights made or revis- [Act XXXIII, 1871, s. 17; ed under this Chapter shall be Act XVIII, 1881, s. 81.]
Confirmation of re- cord of-rights and ed under this Chapter shall be
cord of-rights and ed under this Chapter shall be
presumption as to en- submitted to the Local Gov-
tries therein. ernment; and, when the Local

Government has by notification confirmed the record, all entries therein shall be presumed to be true until the contrary is proved or the record has been revised under this Chapter.

(2) The report and the notification may be with respect to the records-of-rights generally for all or any estates for which they have been made or revised in any local area.

45. (1) When in any record-of-rights com- [Act XXXIII, 1871, ss. 26 and 28.]
Presumption of pleted before the eighteenth
ownership of forests day of November, 1871, it is
and waste lands. not expressly provided that

any forest, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the landowners, it shall be presumed to belong to the Government.

(2) When in any record-of-rights completed after that date it is not expressly provided that any forest, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the Government, it shall be presumed to belong to the landowners.

(3) The presumption created by sub-section (1) may be rebutted by showing—

(a) from the report made by the assessing officer at the time of assessment, or

(b) if the report is silent, then from a comparison between the assessment of villages in which any forest, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land did exist, and the assessment of villages of similar character in which any such accessory interest did not exist,

that the forest, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest was taken into account in the assessment of the land-revenue.

(4) Until the presumption is so rebutted, the accessory interest shall be held to belong to the Government.

(5) When the presumption is so rebutted, the accessory interest taken into account in the assessment shall be held to belong to the landowners.

46. (1) Unless it is otherwise expressly provided in a record-of-rights or by the terms of a grant made by the Government, the [Act XXXIII, 1871, s. 29; and Act XVIII, 1881, s. 151.]

right to all mines, minerals, coals, earth-oil, quarries and gold-washings, and to all fisheries in navigable rivers, shall, notwithstanding anything contained in the last foregoing section, be deemed

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to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of the right.

(2) Whenever, in the exercise of the right by the Government, the rights of any persons are infringed by the occupation or disturbance of the surface of any land, the Government shall pay to those persons compensation for the infringement.

(3) Subject to any rules made in this behalf by the Local Government, the amount of the compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.

Exceptional Provision with respect to Record-of-rights.

[Act VIII, 1881, s. 79.]

47. (1) The Financial Commissioner may direct that a record-of-rights for a group of estates. Rights shall be made for any group of neighbouring estates instead of separately for each of the estates.

(2) The provisions of this Chapter with respect to a record-of-rights for an estate shall then apply so far as they can be made applicable to a record-of-rights for a group of estates.

Other Record Operations.

(i) VILLAGE-CESSSES.

[Act XVIII, 1881, s. 76; Act XIX, 1873, s. 66.]

48. (1) At any time while a record-of-rights is being made or revised and before it is confirmed the Local Government may regulate the rate and conditions of any village-cess, or altogether forbid the levy thereof, and may direct that the record be framed accordingly.

(2) A village-cess shall not be recoverable in any Court unless it is entered in the record-of-rights last made or revised, and confirmed, for the estate in which it is claimed to levy the cess.

(3) The Local Government may direct that the whole or any portion of a village-cess entered in the record-of-rights of an estate shall be expended upon conservancy, police or other objects declared by it to be for the benefit of the estate.

(4) In case of doubt the Local Government may declare what shall be deemed to be a village-cess within the meaning of this section.

(ii) PARTITION PROCEEDINGS.

49. Except with the express consent of the Financial Commissioner, to be obtained in each case, no agreement or proceedings for the partition of land held in joint ownership shall affect the joint liability of the land or of the owners thereof for the land-revenue assessed thereon, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties interested.

[Rules under Act XXXIII, 1871, Rule E 11.]

50. (1) Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to the prescribed Revenue-officer for partition of his share in the land or tenancy, as the case may be.

(2) The Revenue-officer shall admit the application if it is in accordance with—

- (a) a decree of Court, or
- (b) an agreement of the sharers, or
- (c) an entry in the record-of-rights :

Provided that, if either or any of the sharers objects that any entry in the record-of-rights relating to their shares is incorrect or not in accord with existing facts, the Revenue-officer shall defer for three months making an order on the application.

(3) If within the period of three months the objector institutes a suit for the purpose of establishing his objection, the proceedings shall be further stayed till the final disposal of the suit.

(4) If within that period the objector does not institute a suit for that purpose, the Revenue-officer may admit the application.

(5) Subject to the foregoing provisions of this section, the Revenue-officer may dispose of any question arising in the proceedings.

(6) The Revenue-officer may for sufficient reason disallow a partition in whole or in part.

(7) The fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may be a sufficient reason for the disallowance of the partition unless the tenant assents to the severance.

(8) A person to whom any land or portion of a tenancy is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and persons deriving title from them.

51. When by established custom the land held by each landowner in an estate is subject to periodical re-distribution, the prescribed Revenue-officer may on the application of the landowners enforce the re distribution according to the custom, and for this purpose may exercise all the powers of a Revenue-officer in proceedings for partition.

(iii) OTHER CHANGES SUBSEQUENT TO MAKING OR REVISION OF RECORD-OF-RIGHTS.

52. (1) Within six months after any person other than a tenant from year to year has entered into possession of any land, either as landowner or tenant, he shall report the event to the village-officer appointed by the Financial Commissioner in this behalf.

(2) If that person fails to make the report within the six months, he shall be liable, in the discretion of the prescribed Revenue-officer, to fine which may extend to one rupee for every day during which the default continues after the expiration of that period, but is not to exceed fifty rupees in any case.

53. (1) For each estate or group of estates for which a record-of-rights has been prepared, a register of mutations. entries in that record with respect to rights of landowners and of tenants having a right of occupancy shall be kept by such person and in such form, and be attested by such authority and at such times and in such manner, as the Financial Commissioner may by rules in this behalf prescribe.

(2) The Local Government may fix a scale of fees for the attestation of all or any classes of entries in the register.

The Punjab Land-revenue Bill.
(Chapter V.—Assessment.—Sections 54-60.)

(3) The fee fixed in that scale for the attestation of an entry shall be payable by the person entering into possession of the land to which the entry relates.

XXXIII, ss. 39, 40.
54. (1) Annual records shall be prepared for each estate by the village-officer appointed by the Financial Commissioner in this behalf.

(2) An entry at variance with the record-of-rights respecting the rights of a landowner or of a tenant having a right of occupancy shall not be made in the annual records unless an entry of the change which forms the subject of the entry in those records has been made and attested in the register kept under the last foregoing section.

(3) The Financial Commissioner may issue rules for the preparation of the annual records, for the survey of estates so far as may be necessary for the preparation of those records, for the correction of village-maps, for the survey by village-officers of land which is affected by the action of water or sand or of which the maps are found to be incorrect, and, generally, for the guidance of Revenue-officers and village-officers in these matters.

CHAPTER V.

ASSESSMENT.

Rules of General Application.

XVIII, ss. 46, 47.
55. Land-revenue shall be assessed on each estate in cash or in kind for such period and in such form as, subject to confirmation by the Governor General in Council of any orders made in this behalf, the Local Government may, with respect to any estate or any class of estates or estates generally in any district or tahsil, direct.

XIX, ss. 146, 147.
56. In the case of every estate, the entire estate and the landowner, or all the landowners jointly and severally, as the case may be, shall be liable for the land-revenue for the time being assessed on the estate:

Provided that—

(a) with respect to any estate or to any class of estates or estates generally in any local area, the Local Government, with the previous sanction of the Governor General in Council, may by notification declare that neither the land of a landowner nor the landowner himself shall be liable for the land-revenue assessed on a holding of which he is not a landowner; and

(b) when there are superior and inferior landowners in the same estate, the Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior landowners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions.

57. (1) The land-revenue for the time being assessed on an estate or holding shall be the first charge upon the rents and produce thereof.

(2) Without the previous consent of the Deputy Commissioner, the rents or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the instalment of land-revenue next falling due in respect of the estate or holding, and any arrear of land-revenue due in respect thereof, have been paid, or be liable to continue to be so taken unless the land-revenue payable in respect of the estate or holding is paid in advance of the collection of the rents or the removal of the produce.

(3) The Deputy Commissioner may prevent any produce from being removed from the land on which it was grown until the instalment of land-revenue next falling due in respect of that land, and any arrear of land-revenue due in respect thereof, have been paid.

58. (1) A general re-assessment of the land-revenue of a district or tahsil shall not be undertaken without the previous sanction of the Governor General in Council.

(2) The Local Government shall notify that sanction in the official Gazette, and the notification shall, with respect to the district or tahsil to which it relates, be held, for the purposes of section 62 of the Punjab Courts Act, 1884, to be a notification declaring a settlement of land-revenue to be in progress in the local area comprised in that district or tahsil.

(3) In granting the sanction, the Governor General in Council may prescribe such principles of assessment and give such other instructions as he thinks fit.

59. (1) The assessment shall be made by the Deputy Commissioner.

(2) Before making it the Deputy Commissioner shall report his proposed rates and method of assessment for the sanction of the Financial Commissioner in such form as the Financial Commissioner, with the previous sanction of the Local Government, may prescribe.

(3) The rates and method of assessment proposed by the Deputy Commissioner shall be consistent with the principles prescribed, and the other instructions given, by the Governor General in Council.

60. (1) When the Deputy Commissioner has obtained the sanction of the Financial Commissioner to his proposed rates and method of assessment, he shall make an order determining the assessment proper for each estate and announce it to the landowner or landowners of the estate in such manner as the Local Government may prescribe.

(2) At the time of announcing the assessment he shall also declare the date from which it will have effect.

(3) An assessment thus announced shall be subject to confirmation by the Local Government.

The Punjab Land-revenue Bill.
(Chapter V.—Assessment.—Sections 61-69.)

61. (1) A landowner may, within thirty days from the date of the announcement of the assessment, present a petition to the Deputy Commissioner praying for a re-consideration of the amount, form or conditions of the assessment, and stating the grounds of his objection.

(2) Where the land-revenue is assigned, the assignee thereof may within thirty days from that date present a like petition to the Deputy Commissioner.

(3) When the Deputy Commissioner receives a petition under this section, he shall pass an order granting or refusing the petition, and stating his reasons for the order.

62. At any time before the assessment is confirmed by the Local Government, the Commissioner, Financial Commissioner or Local Government may modify it or direct its modification.

63. Subject to any modification under either of the two last foregoing sections, the assessment announced under section 60 shall be the assessment of the estate with effect from the date declared under that section, and, subject to the other provisions of this Act, shall continue in force until it is revised.

64. (1) At any time before the expiration of thirty days from the date on which the assessment of an estate takes effect, the land-

[Cf. Act XXXIII, 1871, s. 36.] owner or, where there are two or more landowners, their headman or all their headmen, as the case may be, may give notice to the Deputy Commissioner of refusal to be liable for the assessment.

(2) When the Deputy Commissioner receives a notice under sub-section (1), he may take possession of the estate and deal with it as nearly as may be as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

(3) While the estate is in the possession of the Deputy Commissioner, the landowner or landowners shall be entitled to receive from the Government an allowance, to be fixed by the Financial Commissioner, which shall not be less than five or more than ten per cent. of the net income realised by the Government from the estate.

65. (1) The Deputy Commissioner shall, after the assessment of an estate has been announced, cause a record to be made and published showing, according to the nature of the ownership of the estate, the amount or share of the land-revenue for the payment of which each landowner is liable, and the rents, rates, cesses or other payments due from and to the persons who have rights in the estate or in any share or portion thereof, whether as landowners or tenants or in any other capacity, or who are entitled to enjoy the rent, land-revenue or produce of the estate or of any share or portion thereof.

(2) The Deputy Commissioner may for sufficient reason revise the record at any time during the currency of the assessment.

(3) In making or revising the record the wishes of the landowners shall be followed as far as may be practicable and equitable.

(4) The Financial Commissioner may make rules for the guidance of Deputy Commissioners acting under this section.

66. (1) Any person liable for or entitled to any payment under the record made under the last foregoing section may, within thirty days from the date of the publication of the record under that section, present a petition to the Deputy Commissioner praying for a re-consideration of the record so far as it affects him, and stating the grounds of his objection.

(2) When the Deputy Commissioner receives a petition under this section, he shall pass an order granting or refusing the petition, and stating his reasons for the order.

67. (1) Where a superior landowner is entitled to receive from an inferior landowner dues in kind or in cash of fluctuating quantity or amount, the Deputy Commissioner may commute those dues into a fixed percentage on the assessment.

(2) The Financial Commissioner may by special order direct that payments due to a superior landowner shall be collected on his behalf as land-revenue.

Rules with respect to excess Waste-land.

68. (1) If, in the opinion of the Financial Commissioner, the waste-land of an estate exceeds the requirements of the landowner or landowners for purposes of pasture or agriculture, the Financial Commissioner may direct any portion of that waste-land to be formed into a separate estate.

(2) When a separate estate has been formed under sub-section (1), the Deputy Commissioner shall assess it to land-revenue and announce the assessment in the manner prescribed under section 60.

(3) Notice of refusal to be liable for the assessment may be given in the manner mentioned in section 64 within thirty days from the date on which the assessment was announced.

(4) If notice is so given, the Deputy Commissioner may take possession of the estate so formed and declare the estate to be at the disposal of the Government.

(5) When the estate has been declared to be at the disposal of the Government, there shall be allowed to the person who was the landowner thereof such annual sum as the Financial Commissioner may direct, being not less than five or more than ten per cent. of the net income realised by the Government from the estate.

Miscellaneous Revenue.

69. Subject to any rules made by the Financial Commissioner with the sanction of the Local Government, land added by alluvion to an estate is liable to assessment, and may be assessed by the prescribed Revenue-officer.

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 70-79.)

Assessment of land added by alluvion and of resumed and other lands, and assessment of miscellaneous revenue.

70. (1) The provisions of section 58 shall not apply to any case for which provision is elsewhere made in this Act or to any of the following cases, namely:—

- (i) the assessment of land-revenue on estates formed under section 68;
- (ii) the assessment of land-revenue on lands of which the land-revenue was released or assigned and has been resumed;
- (iii) the assessment of land-revenue on wastelands sold, leased or granted by the Government, or on other isolated areas;
- (iv) the revision of assessments of land-revenue due to the action of water or sand or to calamity of season;
- (v) the assessment of revenue due to the Government on account of pasturage or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other interests or rights described in section 45 or section 46, in cases in which the revenue so due has not been included in an assessment made under the foregoing provisions of this Chapter.

(2) The Financial Commissioner may, with the previous sanction of the Local Government, make rules for the guidance of the prescribed Revenue-officers in making and revising assessments under this section, and may confirm assessments so made and revised.

(3) The Financial Commissioner may incorporate in rules under sub-section (2) any of the provisions of this Chapter with such modifications as he deems necessary.

CHAPTER VI.

COLLECTION OF LAND-REVENUE.

71. (1) Notwithstanding anything contained in the record-of-rights of any estate or group of estates, the Financial Commissioner may fix the number and amount of the instalments, and the times, places and manner, by, at and in which land-revenue, whether payable direct to the Government or not, is to be paid.

(2) Until the Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and places and in the manner, by, at and in which it is payable when this Act comes into force.

72. The Financial Commissioner may, with the previous sanction of the Local Government, make rules to regulate the collection, remission and suspension of land-revenue, whether assigned or unassigned, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee, and fix the costs to be charged in respect of any process under this Chapter and in respect of the collection by the Government of assigned land-revenue.

73. An arrear of land-revenue shall bear such interest as the Governor General in Council may from time to time prescribe.

74. The costs of any process issued under this Chapter, and any interest chargeable on an arrear of land-revenue, shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued or the interest is chargeable.

75. A statement of account certified by the Revenue-officer shall be conclusive evidence of the existence of an arrear of land-revenue, of its amount, and of the person who is the defaulter.

76. Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by the following processes:—

- (a) by service of a writ of demand on the defaulter;
- (b) by arrest and detention of his person;
- (c) by distress and sale of his moveable property and crops, including any produce of which the Deputy Commissioner may under section 57 prevent the removal;
- (d) by transfer of the holding in respect of which the arrear is due;
- (e) by attachment of the estate or holding in respect of which the arrear is due;
- (f) by annulment of the assessment of that estate or holding;
- (g) by sale of that estate or holding;
- (h) by proceedings against other immoveable property of the defaulter.

77. A writ of demand may be issued by the prescribed Revenue-officer on or after the day following that on which an arrear of land-revenue accrues.

78. (1) At any time after an arrear of land-revenue has accrued the prescribed Revenue-officer may issue a warrant directing an officer to be named therein to arrest the defaulter and to bring him before the Revenue-officer.

(2) The Revenue-officer may thereupon order the defaulter to be taken before the Deputy Commissioner, or may keep him under personal restraint for a period not exceeding ten days and shall then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

(3) When the defaulter is brought before the Deputy Commissioner, the Deputy Commissioner may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Deputy Commissioner thinks fit.

(4) The process of arrest and detention shall not be executed against a defaulter who is a female, minor, lunatic or idiot.

79. (1) At any time after an arrear of land-revenue has accrued, the moveable property or crops of the defaulter may be distrained and sold.

(2) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 80-82.)

sale of moveable property under the decree of a Revenue Court:

Provided that, in addition to the particulars exempted by that law from liability to sale, seed-grain belonging to the defaulter, and so much of the produce of his land as the Deputy Commissioner thinks necessary for the subsistence, until the harvest next following, of the defaulter and his family and of any cattle exempted by that law, shall be exempted from sale under this section.

[Act XIX,
1873, s. 157;
Act VIII,
1879, s. 14.]

80. (1) At any time after an arrear of land-revenue has accrued on a holding, the Deputy Commissioner may transfer the holding, for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer to any person being a landowner of the estate in which the holding is situate and not being himself a defaulter, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Deputy Commissioner may see fit to prescribe.

(2) The Deputy Commissioner shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit.

(3) The transferee shall not either before or after the expiration of the term of the transfer be entitled to compensation for any improvements made by him on the holding or for any losses sustained by him by reason of the transfer.

(4) A transfer under this section shall not affect the joint and several liability of the landowners of the estate in which it is enforced.

(5) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

[Act XIX,
1873, ss. 154,
155 and 156.]

81. (1) At any time after an arrear of land-revenue has accrued, the Deputy Commissioner may cause the estate or holding in respect of which the arrear is due to be attached and taken under the management of himself or of an agent appointed by him for that purpose.

(2) The Deputy Commissioner or the agent shall be bound by all the engagements which existed between the person who immediately before the attachment was in possession of the land attached, and the inferior landowners or tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of that person until the arrear has been satisfied, or until the Deputy Commissioner restores the land to the person whose interest was attached.

(3) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in defraying the arrear.

(4) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next fol-

lowing the date of the attachment, but, if the arrear is sooner liquidated, the land shall be released and the surplus receipts (if any) made over to the landowner.

82. (1) When an arrear of land-revenue has been due for a longer period than one month, and the Deputy Commissioner is of opinion that the foregoing processes are not sufficient for the recovery of the arrear, he may, in addition to or instead of all or any of those processes, report the matter to the Financial Commissioner, and the Financial Commissioner may thereupon order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

(2) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

- (a) while under attachment under the last foregoing section, or
- (b) while under the charge of the Court of Wards.

(3) When the assessment of any land has been annulled, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner:

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(4) After the expiration of that term the Deputy Commissioner shall assess the estate or holding at such sum as the Financial Commissioner approves for the remainder of the term of the current assessment of the district or tahsil, and shall announce the assessment in the manner prescribed in section 60.

(5) Notice of refusal to be liable for the assessment may be given in the manner mentioned in section 64 within thirty days from the date on which the assessment was announced.

(6) If notice is so given, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(7) When the assessment of a holding is annulled, the joint responsibility of the other landowners of the estate for the land-revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(8) The Financial Commissioner may direct that any contract made by the person who immediately before the annulment of the assessment of an estate or holding was in possession of the lands comprised therein, or any contract made by any person through whom that person claims, relating to those lands, shall not be binding on the Deputy Commissioner or his agent or farmer during the term of the management or farm.

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 83-88.)

XIX, ss. 160, and 162.] **83. (1)** When any land is attached under section 81, or when the assessment of any land has been annulled under the last foregoing section, the Deputy Commissioner shall make proclamation thereof.

(2) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Deputy Commissioner or his agent or farmer shall be credited to the person making the payment, or relieve him from liability to make the payment again to the Deputy Commissioner or his agent or farmer.

(3) No payment made before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Deputy Commissioner, be credited to the person making the payment in account with the Deputy Commissioner or his agent or farmer.

XIX, s. 166.] **84.** When an arrear of land-revenue has accrued and the Deputy Commissioner is of opinion that the foregoing processes are not sufficient for the recovery of the arrear, he may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained and with the previous sanction of the Financial Commissioner, sell the estate or holding in respect of which the arrear is due:

Provided that land shall not be sold—

- (a) for any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (a), (b), (c) or (d); or
- (b) for any arrear which has accrued while the land was under attachment under section 81 of this Act; or
- (c) for any arrear which has accrued while the land was held under direct management by the Deputy Commissioner, or in farm by any other person, under section 82, after either an annulment of assessment or a refusal to be liable therefor.

XIX, s. 167; XVIII, s. 108.] **85. (1)** Land sold under the last foregoing section shall be sold free of all incumbrances: and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(2) Nothing in sub-section (1) shall affect—

- (a) the right of occupancy of a tenant having that right in the land; or
- (b) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship or burial-ground, so long as the land continues to be used for the purpose specified in the lease; or
- (c) any incumbrance specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

86. (1) If the arrear cannot be recovered by any of the processes hereinbefore provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Deputy Commissioner may, where the defaulter owns any other estate or holding, or any share in any other estate or holding, or any other immoveable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due:

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(2) When the Deputy Commissioner determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(3) The Deputy Commissioner may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(4) Any private alienation of the property, whether by sale, gift, mortgage or otherwise, made after the making of the proclamation and before the withdrawal thereof shall be void.

(5) In proceeding against property under this section, the Deputy Commissioner shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

87. Notwithstanding anything contained in section 75, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the time of payment and signed by him or his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

Procedure in Sales.

88. (1) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Deputy Commissioner shall issue a proclamation of the intended sale, stating—

- (a) the date, time and place of the sale;
- (b) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon;
- (c) whether the property is to be sold under section 84 or under section 86, and, when in the former case the property is to be sold subject to an incumbrance specially saved by order of the Financial Commissioner under section 85, what that incumbrance is; and
- (d) the amount for the recovery of which the sale is ordered.

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 89-104.)

(2) The proclamation shall also state that any person claiming a right of pre-emption must, on penalty of forfeiting the right, give notice of his claim to the Deputy Commissioner before the commencement of the sale.

[Act XIV,
1882, s. 288.]

89. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

[Act XIV,
1882, s. 289.]

90. (1) A copy of the proclamation shall be served on the defaulter, and be fixed up in a conspicuous part of the office of the Tahsildar of the tahsil in which the property to be sold is situate.

(2) After a copy of the proclamation has been so fixed up in the office of the Tahsildar, a copy thereof shall be fixed up in the office of the Deputy Commissioner.

(3) The proclamation shall be further published in manner prescribed in section 25 and in such other manner as the Deputy Commissioner thinks expedient.

[Act XIV,
1882, s. 290.]

91. (1) The sale shall not take place on a Sunday or other holiday, or until after the expiration of at least thirty days from the date on which the copy of the proclamation was fixed up in the office of the Deputy Commissioner.

(2) The sale shall be by public auction at the office of the Deputy Commissioner, and shall be conducted either by the Deputy Commissioner in person or by a Revenue-officer specially appointed by him in this behalf.

(3) The Deputy Commissioner may from time to time postpone the sale.

[Act XIX,
1873, s. 173.]

92. If before the day fixed for the sale the defaulter pays, either at the place and in the manner prescribed under section 71 or to the officer in charge of the Government treasury of the district, the arrear in respect of which the land has been proclaimed for sale, the sale shall be stayed.

[Cf. Act XLV,
1860, s. 185.]

93. A defaulter shall be incapable of purchasing land at a sale under this Chapter.

[Act XIX,
1873, s. 188,
Act XVIII,
1881, s. 110.]

94. (1) At any time before the close of the day on which the sale is concluded any person who before the commencement of the sale has given notice of his claim to a right of pre-emption may claim to take the property at the sum last bid.

(2) If the right is not disputed, he shall be declared to be the purchaser.

(3) If the right is disputed, the Deputy Commissioner shall decide the dispute and declare the purchaser.

[Act XIV,
1883, s. 306.]

95. The person declared to be the purchaser shall pay immediately after the declaration a deposit of twenty-five per centum on the amount of the purchase-money to the officer conducting the sale, and, in default of that deposit, the property shall forthwith be put up again and sold.

96. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the sale took place, or, if the fifteenth day is a Sunday or other holiday, then on the first office-day after the fifteenth day.

97. In default of payment within the period mentioned in the last foregoing section, the deposit, after defrayment of the expenses of the sale, shall be forfeited to the Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

98. The deficiency of price (if any) which may happen on a re-sale consequent on a purchaser's default under this Chapter, and all expenses attending that re-sale, shall be recoverable from the defaulting purchaser as if the same were an arrear of land-revenue.

99. Every sale of immoveable property under this Chapter shall be reported by the Deputy Commissioner to the Commissioner.

100. (1) At any time within thirty days from the date of the sale, application to set aside the sale may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

(2) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

101. (1) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale; and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(2) An order made under this section shall be final.

102. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

103. A sale made after a postponement, and a re-sale consequent on a purchaser's default under section 97 or on the setting aside of a sale, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

104. (1) After a sale has been confirmed in the manner aforesaid, the Deputy Commissioner shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

The Punjab Land-revenue Bill.
(Chapter VIII.—Village Waste-lands.—Sections 105-109.)

(2) The certificate shall state whether the property was sold under section 84 or under section 86, and, when in the former case it was sold subject to an incumbrance specially saved by order of the Financial Commissioner under section 85, what that incumbrance is.

(3) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance.

(4) Any suit brought, whether in a Civil or Revenue Court, against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

(5) The person named in the certificate as purchaser of any land shall be liable for all instalments of land-revenue falling due in respect of the land after the date of the confirmation of the sale.

105. (1) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears due from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue or of sums recoverable as arrears of land-revenue, and the surplus (if any) shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one landowner, then to the landowners either collectively or according to the amount of their recorded interests, as the Deputy Commissioner thinks fit.

(2) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

CHAPTER VII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

106. (1) When a village-officer, required by rules made under section 35 to collect land-revenue or other payments recorded under section 65, satisfies the Deputy Commissioner that those payments have not been made to him, the Deputy Commissioner may, subject to rules made by the Financial Commissioner in this behalf, recover them as if they were arrears of land-revenue.

(2) When the Deputy Commissioner enforces the payment of sums due to a village-officer under this section, he may refuse to consider any set-off claimed by the person against whom or whose property he issues process.

107. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely:—

- (a) sums payable in respect of land assessed or assessable to land-revenue of the nature of quit-rent or commutation for service, and fees, fines, costs and other charges, including the village-officers' cess, payable under this Act;

(b) village-cesses, so far as they are applicable to conservancy, police or other objects declared by the Local Government to be for the benefit of an estate; [See section 48 of this Bill.]

(c) revenue due to the Government on account of pasturage or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other interests or rights described in section 45 or section 46 in cases in which the revenue so due has not been included in the assessment of an estate; [See section 70 of this Bill.]

(d) sums due to the Government from an agent appointed by the Deputy Commissioner to manage the land of a defaulter, or of a landowner who has refused to be liable for an assessment, or from the farmer of such land, or from the surety of the agent or farmer;

(e) fees leviable under section 33 of the Punjab District Boards Act, 1883; and XX of 1883.

(f) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation-works, not being sums recoverable as arrears of land-revenue under any enactment for the time being in force.

108. (1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Deputy Commissioner to sell the produce and to pay to him out of the proceeds of the sale thereof the amount or value of— [Act XII, 1881, s. 56; Act IX, 1883, s. 22.]

(a) any arrear of rent legally exigible by him in respect of the tenancy; and

(b) the rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

(2) If the Deputy Commissioner finds the whole or any part of the landlord's claim to be proper, he shall cause the produce, or such portion thereof as he thinks necessary, to be sold, and the proceeds of the sale to be applied in the first instance to satisfy the claim or the part thereof found to be proper, and shall give information of his proceedings to the Court which ordered the attachment.

(3) The finding of the Deputy Commissioner under this section shall be deemed to be a decree of a Revenue Court in a suit between the landlord and the tenant.

CHAPTER VIII.

VILLAGE WASTE-LANDS.

109. (1) When the majority of the land-owners desire, or the Local Government considers it expedient, that a part of the common waste-lands of an estate or holding should be managed for the production of timber, fuel or fodder, the Local Government may by proclamation propose to notify that any part of those waste-lands not exceeding one-fifth of the whole shall be so managed. [New. See Circular of the Government of India, Department of Revenue and Agriculture, No. 16A., dated the 1st March, 1883.]

The Punjab Land-revenue Bill.
(Chapter IX.—Surveys and Boundaries.—Sections 110-117.)

(2) The proclamation shall define the area to which the proposed notification is to apply, and state the purpose for which the area is to be managed, and shall call upon any person objecting to the proposed notification to show cause before the Deputy Commissioner, within three months from the date of the making of the proclamation, why the area should not be notified.

(3) Any objection made under sub-section (2) shall be recorded by the Deputy Commissioner, and be submitted to, and considered by, the Local Government.

(4) When three months from the date of the making of the proclamation have expired, and the Local Government has considered any objection which may have been submitted to it, the Local Government may notify the area and the purpose for which it is to be managed.

(5) The Local Government may withdraw any area from the operation of a notification under this section.

110. (1) While an area is notified, all rights existing therein shall be suspended, and the area shall be managed in accordance with rules to be made in this behalf by the Local Government.

(2) When any area is withdrawn from the operation of a notification, the rights suspended under sub-section (1) shall revive and the management under this Act shall cease.

(3) In making any rule under sub-section (1) the Local Government may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and when the breach is a continuing breach with a further fine which may extend to ten rupees for every day after the first during which the breach continues.

111. (1) The persons who before the publication of the notification were entitled to the profits of the notified area may assess themselves by the vote of a majority of their body for the purposes of the management of the area.

(2) The assessment may be in labour or in cash or in both, and shall be subject to the approval of the Deputy Commissioner.

(3) When the assessment, or any part of the assessment, of any person consists of labour, the sum to be paid by him in cash in default of performance of the labour shall be determinable by the Deputy Commissioner as an alternative to the assessment or part.

(4) Any sum assessed or determinable under this section may be recovered by the Deputy Commissioner as an arrear of land-revenue.

(5) When an assessment is made under this section, the Deputy Commissioner may permit the notified area to be managed, under the superintendence of the prescribed Revenue-officer, by the persons paying the assessment, and the profits of the area shall be divisible among those persons in such manner as, subject to any rules under the last foregoing section, the Deputy Commissioner deems just.

112. When an assessment is not made under the last foregoing section, the following consequences shall ensue, namely:—

Management where assessment is not made to meet the cost.

- (a) the notified area shall be managed by the prescribed Revenue-officer;
- (b) the cost of management shall be defrayed from the proceeds of the produce of the area; and
- (c) only the balance, if any, of those proceeds shall be divisible in manner aforesaid among the persons who before the publication of the notification were entitled to the profits of the area.

113. While an area is notified, the provisions of Chapter XI of the Indian Forest Act, 1878, shall apply to any part of that area which is closed to grazing.

CHAPTER IX.

SURVEYS AND BOUNDARIES.

114. (1) The Financial Commissioner may, with the previous sanction of the Local Government, make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates.

(2) Rules under this section may prescribe, among other matters, the form of boundary-marks and survey-marks and the material to be used in their construction.

115. (1) The prescribed Revenue-officer may, for the purpose of framing any record or making any assessment under this Act, define the limits of any estate, holding or field, and, for the purpose of indicating those limits, require boundary-marks and survey-marks to be erected or repaired.

(2) In defining the limits of any land under sub-section (1), the Revenue-officer may lay down or restore any boundary or any boundary-mark or survey-mark already determined or set up by, or by order of, any Court, Revenue-officer or Forest-settlement-officer.

116. Subject to any rules made by the Financial Commissioner in this behalf with the previous sanction of the Local Government, boundary-marks and survey-marks shall be erected and kept in repair by and at the cost of the persons interested in the land for the indication of the limits of which they are required:

Provided that the Local Government may in any case direct that the cost of erection in the first instance shall be borne by the Government or be a charge on the proceeds of the village-officers' cess.

117. (1) If the persons interested in the land fail to erect or repair a boundary-mark or survey-mark within fifteen days from the date of their being required by the prescribed Revenue-officer to do so,

Recovery of cost incurred by the Government.

[Act 1878]

The Punjab Land-revenue Bill.
(Chapter X.—Supplemental Provisions.—Sections 118-125.)

the Revenue-officer may cause it to be erected or repaired.

(2) Where the Revenue-officer causes a boundary-mark or survey-mark to be erected or repaired, he shall, subject to any rules made under the last foregoing section, apportion the cost among those persons in such manner as he deems just, and certify the same to the Deputy Commissioner.

(3) The Deputy Commissioner may recover the cost as if it were an arrear of land-revenue.

118. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

119. (1) When any land is being surveyed in pursuance of a direction of the Local Government or of rules under Chapter IV of this Act, any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

(2) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable, at the discretion of the prescribed Revenue-officer, to fine which may extend to ten rupees.

120. (1) For the purposes of the survey of any land under Chapter IV of this Act, the landowners shall be bound to provide persons to act as flag-holders and chainmen.

(2) If the landowners fail to provide persons for that purpose or to provide them in sufficient number, such other persons as the Revenue-officer considers necessary may be employed and the cost of employing them recovered from the landowners as if it were an arrear of land-revenue.

121. (1) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Local Government may publish a notification stating—

- (a) the local area to be surveyed and the nature of the survey;
- (b) the names or official designations of the officers by whom the survey is to be made; and
- (c) the survey-marks to be erected by those officers.

(2) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 118.

122. (1) If any person wilfully destroys, injures or removes without lawful authority a boundary-mark or survey-mark lawfully erected, or if a landowner negligently

suffers any such mark to be destroyed, injured or removed without lawful authority, that person or landowner may be ordered by the prescribed Revenue-officer to pay such fine, not exceeding fifty rupees for each mark so destroyed, injured or removed, as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

XLV of 1860.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

Rent and Revenue Deposits.

123. If a person liable to pay any sum to a headman or other landowner on account of rent, or of any liability to which that person is subject under this Act, tenders that sum to the headman or other landowner, and the sum is refused or a receipt therefor not forthwith granted, or if that person is doubtful as to the person entitled to receive the sum, he may apply to the prescribed Revenue-officer for leave to deposit the amount with the Government, and the Revenue-officer shall receive the deposit if, after such enquiry as he thinks fit, he is satisfied that the applicant has sufficient ground for making the application.

124. (1) If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly.

(2) If it purports to be made on any other account, the Revenue-officer shall issue a notice of the deposit to the person to whose credit the sum has been deposited.

(3) If within three years from the date of the service of the notice that person appears and claims the sum, the Revenue-officer, if satisfied as to his title to receive it, may pay it to him.

(4) If the Revenue-officer is not so satisfied, he may retain the deposit pending the decision of a Court of competent jurisdiction, and shall then pay the deposit in accordance with that decision.

(5) If the deposit is not so paid within three years, it shall be repaid to the depositor or disposed of as he may desire.

(6) When a deposit has been received it shall, in any question between the depositor and the person to whose credit the deposit was placed, be deemed, while it remains with the Government or after it has been paid under sub-section (3) or sub-section (4), to be a payment made by the depositor to that person.

125. No suit or other proceeding shall be instituted against the Secretary of State and public officers, Council, or against any officer of the Government, in respect of anything lawfully done by a Revenue-officer under the last foregoing section, but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

The Punjab Land-revenue Bill.
(Chapter X.—Supplemental Provisions.—Sections 126-132.)

Execution of Decrees by Revenue-officers.

126. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land shall be addressed to the Deputy Commissioner, or such Revenue-officer as the Deputy Commissioner may appoint in this behalf, and be executed by the Deputy Commissioner or that Revenue-officer in accordance with the provisions of the law applicable to the Court and with any rules consistent therewith made by the Local Government with the concurrence of the Chief Court.

Orders of Civil and Criminal Courts for attachment, sale or delivery of land to be addressed to the Deputy Commissioner.

127. (1) Orders issued by any Civil or Criminal Court for the attachment of the rents or for the attachment or sale of the produce of any land shall be addressed to the Deputy Commissioner or such Revenue-officer as the Deputy Commissioner may appoint in this behalf, and shall be executed under the Deputy Commissioner's direction and control.

(2) Subject to the other provisions of this Act the attachment of the produce of any land shall not prevent any person from reaping, gathering or storing the produce, or doing any other act necessary for its preservation.

(3) The Financial Commissioner may, with the previous sanction of the Local Government, make rules to regulate the procedure of Revenue-officers in attaching the rents or attaching and selling the produce of land.

Division of Produce.

128. In either of the following cases, namely:—

- (a) where two or more landowners, or two or more tenants, are jointly interested in any produce, and either or any of the landowners or of the tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing the produce, or
- (b) where it is necessary to divide any produce for the purposes of this Act,

the rules contained in sections 20 to 22 (both inclusive) of the Punjab Tenancy Act, 1886, shall apply so far as they can be made applicable.

Power to make Rules.

129. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Financial Commissioner, with the previous sanction of the Local Government, may make rules, consistent with this Act and any other enactment for the time being in force,—

- (a) fixing the number and amount of the instalments of rent and rates and of cesses and other sums of which a record has been made under this Act, and the dates for the payment of those instalments;
- (b) fixing the dates on which profits shall be divisible by headmen or other persons by whom they are realised on behalf of co-sharers;
- (c) regulating the procedure in cases where persons are entitled to inspect records of Revenue-offices or Revenue Courts, or

records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

- (d) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made or compiled in Revenue-offices or Revenue Courts or submitted to any authority;
- (e) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English;
- (f) providing for the inspection of those offices and Courts and the supervision of the working thereof;
- (g) regulating all such matters as he thinks fit, with a view to promoting the efficiency of the establishments of those offices and Courts, and maintaining proper discipline among the ministerial officers of those establishments; and
- (h) generally for carrying out the purposes of this Act.

(2) Rules under clauses (a), (b) and (h) may be of general or special application, and may be expressed to supersede anything contained in any record-of-rights.

(3) Until rules are made under clauses (a) and (b) the sums therein referred to shall be payable in the instalments and at the times in and at which they are now payable.

(4) Rules made under clause (g) may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary which may be or become due to the officers fined.

130. All powers to make rules under this Act

shall be exercised subject to the control of the Governor General in Council.

131. (1) The Local Government and the Financial Commissioner shall, before making any rules under this Act, publish, in such manner as may in its or his opinion be sufficient for giving information to persons interested, a draft of the proposed rules, with notice of the date at or after which the draft will be taken into consideration, and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before that date.

(2) Every rule made by the Local Government or the Financial Commissioner shall be published in the local official Gazette, and that publication shall be conclusive proof that the rule has been made as required by this section.

Jurisdiction with respect to Revenue matters and fluvial Lands.

132. (1) Except as otherwise provided by this Act, a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue Court.

[Cf. C. P. T. Act, s. 20.]

[Act XX
1871, ss.
65; Act
1873, s.
242
XVIII.
s. 219.
XVIII.
s. 152.]

The Punjab Land-revenue Bill.
(Chapter X.—Supplemental Provisions.—Sections 133-135.)

officer or Revenue Court is empowered by this Act or by the Punjab Tenancy Act, 1886, to dispose of or to hear and determine, or take cognizance of the manner in which the Local Government or any Revenue-officer or Revenue Court exercises any powers vested in it or him by or under those Acts; and in particular—

(2) A Civil Court shall not exercise jurisdiction with respect to—

- (a) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;
- (b) any claim to the office of kánungo, zaildár or village-officer, or in respect of any injury caused by exclusion from the office, or to compel the performance of the duties thereof;
- (c) any notification directing the making or revision of a record-of-rights;
- (d) the framing of a record-of-rights, or the preparation, signing or attestation of any of the documents included therein;
- (e) the correction of any entry in a record-of-rights;
- (f) any claim for partition of an estate, holding or tenancy, or any dispute connected with, or arising out of, proceedings for partition, not being a dispute as to the extent of the shares belonging to the parties to the proceedings;
- (g) any question as to the distribution of land at the partition of an estate or holding, or as to the distribution of land subject by established custom to periodical re-distribution;
- (h) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor General in Council;
- (i) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;
- (j) the amount of land-revenue to be assessed on any estate or holding under this Act;
- (k) the amount of any other revenue to be assessed under this Act, or of any cess or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;
- (l) the amount of, or the liability of any person to pay, any fees, fines, costs or other charges imposed under this Act;
- (m) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act;
- (n) the liability of any person to pay a sum appearing from the record prepared under section 65 to be payable by him;
- (o) the formation of an estate out of excess waste-land, or the declaration of an es-

tate so formed to be at the disposal of the Government;

- (p) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;
- (q) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery, of land-revenue or any sum recoverable as an arrear of land-revenue;
- (r) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue; or
- (s) any claim connected with, or arising out of, proceedings for the management of any area for the production of timber, fuel or fodder.

133. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two Civil or Revenue Courts or of two Revenue-officers any land subject to fluvial action is situate, either of those Courts or officers may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and entertain and dispose of any suit or proceeding relating to that land, with respect to which the Court or officer is competent as regards the nature of the suit or proceeding, and the value of its subject-matter, to exercise jurisdiction.

(2) When the Court or officer has recorded a statement to the effect mentioned in sub-section (1), an objection that the suit or proceeding was instituted or had before a Court or officer not having jurisdiction in the place where the land is situate shall not be allowed by any appellate or revisional Court or officer.

(3) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court or officer that a decree or order in a suit or proceeding relating to such land as aforesaid was made by a Court or officer not having jurisdiction in the place where the land is situate, the appellate or revisional Court or officer shall not allow the objection if in its or his opinion there was, at the time of the institution of the suit or proceeding, any reasonable ground for uncertainty as to the Court or officer having jurisdiction with respect thereto.

Miscellaneous.

134. (1) Any record or paper which a village-officer is required by law or s. 76. [Act I, 1872. Papers kept by village-officers to be deemed public documents.] by any rule under this Act to prepare or keep shall be deemed to be the property of the Government.

(2) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect.

135. All persons whose rights, interests or liabilities are required by this Act to be entered in a record-of-rights or other record prepared under this Act shall be

Obligation to furnish information necessary for the preparation of records.

I of 1872.

The Punjab Land-revenue Bill.
(The Schedule.—Enactments repealed.)

bound to furnish on the requisition of the Revenue-officers or village-officers engaged in preparing the record all information necessary for the correct preparation thereof.

136. If a person required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time within the limits of the estate in which he ordinarily resides fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to fifty rupees.

137. When service is paid for by a percentage deducted from the land-revenue, assignments of land-revenue shall, unless the Local Government in any case otherwise determines, be reduced by the same percentage.

[Act XII, 1881, s. 29.] 138. (1) Where a lease has been granted, or an agreement has been entered into, by a landowner, fixing for a period exceeding the term of the assessment the rent of any land assessed to land-revenue, and that term has expired, the lease or agreement shall be voidable—

(a) at the option of the landlord if the land-revenue of the land has been enhanced and the tenant refuses to pay such rent as the prescribed Revenue-officer, on the application of the landlord, determines to be fair and reasonable; and

(b) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent as the prescribed Revenue-officer, on the application of the tenant, determines to be fair and reasonable.

[Cf. Act XXXIII, 1871, s. 38.] (2) Any contract or agreement relative to the occupation, rent or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the contract or agreement, or unless the contract or agreement is otherwise terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

[Act XVIII, 1881, s. 155.] 139. (1) A Revenue-officer, or a person employed in a Revenue-office, shall not, except with the express permission of the Local Government,—

[Act XLV, 1860, s. 168.] (a) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the acquisition, except for public purposes, of any land or interest in land by purchase, mortgage or otherwise, in the district to which he is appointed or in which he is employed; or

(b) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which may be sold by order of any Revenue-officer or Revenue Court in that district.

(2) The Local Government may delegate to Commissioners or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class or grade of Revenue-officers.

(3) Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, or other law.

140. All powers conferred by this Act on the Local Government or on the Financial Commissioner may be exercised from time to time as occasion requires.

THE SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

Number and year.	Title or subject of Act.	Extent of repeal.
1	2	3
Act VI of 1867	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his government.	The whole.
Act XXXIII of 1871.	The Punjab Land-revenue Act, 1871.	The whole.
Act IV of 1872	The Punjab Laws Act, 1872.	Section 21.
Act XIV of 1875.	The Punjab Judicial Administration Act, 1875.	So much as has not been repealed.
Act XVIII of 1884.	The Punjab Courts Act, 1884.	Section 3 (1), (2), (4), (5), (6) and (7); the whole of Chapter V; the last seventeen words of sub-section (1) of section 67; and section 75.

STATEMENT OF OBJECTS AND REASONS.

THE law relating to the assessment and collection of the land-revenue and other connected subjects is contained in Act XXXIII of 1871. This Act was the first attempt to express in clear and concise language the various rules and orders—based on the “spirit” of the Bengal Regulations—by which the proceedings of Revenue and Settlement officials in the Punjab had,

up to that time, been regulated, and which had acquired the force of law under section 25 of the Indian Councils Act, 1861.

The Act under consideration was framed with great care by Sir James Stephen in consultation with the Financial Commissioner, Mr. (afterwards Sir. R.) Egerton, and the then Lieutenant-Governor, Sir R. H. Davies, both officers of large revenue and settlement experience. But subsequent experience has shown that it is incomplete in some respects and requires amendment in others. Some of the defects in it have recently formed the subject of correspondence with the Government of India, and others have been supplied in the enactments on the same subject which have since been framed for other parts of India. Moreover, the recent orders of the Government of India, based on recommendations of the Famine Commissioners, require that the continuous operations by which village-records are maintained correct to date shall be disconnected from those other occasional proceedings by which the assessment of the land-revenue is revised. And in the endeavour to recast the body of rules which have been issued under the authority of the existing law, with a view to the carrying out of those orders, technical difficulties have arisen which render the amendment of the Act a matter of necessity. The Punjab Tenancy Act, 1868, being under revision at the same time, the Bill has been so framed as to cover the entire jurisdiction of Revenue-officers, whether of a judicial, fiscal or executive character.

CHAPTER I.—PRELIMINARY.

This Chapter contains the necessary definitions—some of which are new and others have been incorporated from the Land-revenue Acts recently passed for other provinces—and a few other preliminary provisions.

CHAPTER II.—REVENUE-OFFICERS AND REVENUE COURTS.

The classification of Revenue-officers and Revenue Courts, the powers taken for the appointment of the former, and the provisions for the superintendence and control of both, differ little from the corresponding provisions of the existing law, which are scattered over three enactments—the Land-revenue Act, 1871, the Judicial Administration Act, 1875, and the Courts Act, 1884.

Section 9 gives a detail of the applications and proceedings which can be disposed of by Revenue-officers as such, and section 10 of those cases which they will deal with in their judicial capacity as Revenue Courts. The classes of cases of which particulars are given in this latter section are, with some not very important variations suggested by the experience of the last two years, taken from section 45 of the Courts Act, 1884; but the list has been supplemented by including in it suits under several new sections of the Bill now before the legislature for the amendment of the Punjab Tenancy Act, 1868. In the Courts Act these suits have been divided into two groups, the first or more important group being reserved exclusively for trial by Deputy Commissioners. But as no such distinction existed before the passing of that Act, and as it has been found to be productive of serious inconvenience, it has been omitted from this Bill. The Local Government will by rule or notification under section 13 determine by what officers or classes of officers these cases will be heard, and the rule adopted will ordinarily, as in former years, be based mainly on the value of the suits.

Experience since the passing of the Courts Act having shown that the subordinate Civil and Revenue Courts do not always succeed in avoiding mistakes as to the respective limits of their jurisdictions, provision has been made in section 11 for obviating by a reference to the Chief Court the inconvenience and expense to the parties of setting aside the proceedings in cases where a Court has acted without jurisdiction, when neither party has been prejudiced by the mistake.

The other provisions of this Chapter which call for special notice are those relating to appeal and revision. The change in jurisdiction to try original revenue suits noted above has necessitated an alteration in the course of appeal, and in place of the somewhat complicated system of appeal laid down in sections 47 and 48 of the Courts Act, the more simple system provided in sections 19 and 20 of the Bill has been devised. Where the order in appeal confirms the original decision, there will be no further appeal; in other cases there will be a further appeal to the Financial Commissioner. By section 22 power has been given to the Financial Commissioner to call for and revise the proceedings of both Revenue-officers and Revenue Courts; as regards the former class of proceedings, this merely continues an authority which he already possesses under section 65 of the Land-revenue Act of 1871. The remaining sections of this Chapter relate to procedure, and for the most part reproduce provisions on the subjects in the Courts Act; where additions have been made, they have been taken from the revenue laws of other provinces.

CHAPTER III.—KÁNÚNGOS, ZAILDÁRS AND VILLAGE-OFFICERS.

The provisions of the existing law respecting these officers are contained in one short section. Those of the Bill are in greater detail, and provide expressly for the levy of a cess for the payment of village-officers, for the administration of the cess so levied, and for the control of these officers. Section 36, which authorizes the levy of this cess, also cures a defect

in the present law by enabling the cess to be charged on the owner's and water-advantage rates.

CHAPTER IV.—RECORDS.

In framing this and the following chapter, the language of the existing law, which describes the framing of a record-of-rights and the assessment of the land-revenue by the term "settlement," has been departed from. These two chapters speak (i) of the preparation and maintenance of certain records for each village, and (ii) of the assessment of land-revenue on the basis furnished by those records. The powers necessary for these purposes are taken in the name of the ordinary Revenue-officers; and it is left open to Government to decide from time to time, as occasion arises, how much of these operations can be carried out by the ordinary district staff, and for what operations special and additional officers should be appointed under the authority provided in section 14.

A record-of-rights has now been provided for every district in the Province. Additions to these records are required from time to time as new estates come into existence. And their occasional revision is necessary, usually in connection with re-assessment operations. Under section 41 of the Bill it will be in the discretion of the Local Government to direct the undertaking of record-operations as occasion arises.

The tendency of recent experience is towards a much greater simplification of these records than any that was aimed at when the Act of 1871 was enacted, and therefore the definition of the contents of the record in section 39 of the Bill is briefer and less elaborate than that set out in section 14 of the existing Act. The existing limitations on the alteration of entries are continued by section 43. Section 44 provides for the prompt confirmation of the record. At present this confirmation is often delayed for a long time, because the operations of record and assessment cannot be dealt with separately.

The presumptions in favour of the title of the Government to waste-lands, forests, mines and minerals, which are asserted by the present law, are continued in sections 45 and 46, and words have been added to the latter section which assert the right of the Government to fisheries in navigable rivers, a right which the State has always possessed.

The provisions relating to village-cesses in section 48 give legal sanction to an authority which the Local Government often exercised in connection with the earlier settlements in the Punjab, which is still occasionally needed, and which is provided in the Land-revenue Acts of other Provinces of Upper India.

The rest of the Chapter relates to partition-proceedings, the record of mutations, and the preparation of the annual papers, and in these respects re-produces for the most part the provisions of the existing law and of the rules made under its authority. The only change of importance is the proposal to discontinue the system prescribed by section 21 of the Punjab Laws Act, 1872, by which all Courts are required to send to the Deputy Commissioner copies of decrees affecting rights in land or the possession thereof. No inconvenience has, it is understood, been experienced in the North-Western Provinces during the last twelve years in consequence of the removal of a provision of this kind from the law applicable to those provinces; and it is believed that, as there the reports of changes of possession which are required to be made by sections 97 and 99 of Act XIX of 1873 have produced the desired effect, so here the somewhat similar provision in section 52 of the Bill will prove equally effective.

CHAPTER V.—ASSESSMENT.

This Chapter is so drafted that while continuing all the provisions of the existing law, it supplies some important omissions in that law and expresses with clearness the procedure which has grown up under it. The opening sections of the Chapter expressly declare that the land-revenue is the first charge on the land, its rents and its produce, and they further provide security against the alienation of the rents and produce until this charge has been satisfied. The absence of any clear provision of this nature has been the cause of some inconvenience during past years. It has not uncommonly happened that a decree-holder has succeeded in attaching rents or produce due to a landowner before the latter has paid his revenue, leaving the Revenue-officers no remedy except that of proceeding against the produce of the next harvest, or against the land itself.

By the procedure laid down in sections 60 to 63 the formality of demanding from the landowners of every estate or their representatives a written engagement accepting the new assessment is dispensed with. But the landowners will still be at liberty to refuse to be liable for the assessment fixed by the Deputy Commissioner, and the consequences of refusal will be the same as those which follow from refusal to accept an assessment under the present law. Refusals of this kind, however, occur so seldom in the Punjab that the really important point in the procedure connected with the giving of effect to revised assessments lies less in the provisions dealing with these refusals than in those contained in sections 61 and 62 of the Bill, which provide for the hearing of objections and appeals, and for the modification of assessments prior to confirmation. In a country of small holdings cultivated by the owners themselves—and this is the prevailing character of Punjab tenures—an owner is very rarely in a position to decline to pay the new assessment; if he thinks that it is too heavy, the only

remedy practically open to him is to appeal against it, and this is the remedy which he has almost invariably adopted.

Section 67 gives a power of converting the dues of a superior landowner, when leviable in kind or cash of varying quantity or amount, into a fixed percentage on the land-revenue. This authority existed prior to the enactment of the present law, and, in a case of some importance which recently came under consideration and was adjusted by compromise in the manner provided for in this section, the absence of this authority caused serious embarrassment both to the Revenue-officers and to those who were liable for the revenue.

CHAPTER VI.—COLLECTION OF LAND-REVENUE.

No very material change has been made in this Chapter in the law relating to the recovery of arrears, but in drafting the sections which deal with this subject an attempt has been made to set forth the several processes which can be resorted to for this purpose and their results in as simple a form as possible. The following are the principal alterations made:—(a) the period during which a defaulter may be imprisoned has been reduced by section 78 from one year to one month; (b) the exemptions from attachment and sale specified in section 266 of the Code of Civil Procedure have been extended by section 79 in the case of revenue defaulters to seed-grain, and to so much of the produce of a defaulter's land as is necessary for the support of himself and his family and the maintenance of his cattle until the harvest next following the execution of the process; (c) in order to render the Chapter complete in itself, the procedure for the sale of a defaulter's land, instead of being dealt with, as in the present Act, by reference to the sections of the Code of Civil Procedure relating to the sale of immoveable property, has been set out in full by the incorporation of those sections, with some necessary modifications, in the Bill.

CHAPTER VII.—RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

This Chapter contains provisions for the recovery as arrears of land-revenue of sums due to headmen and other village-officers, and of a number of items of miscellaneous revenue. Almost all that is new in this Chapter is taken from the Revenue and Rent Acts of other provinces.

CHAPTER VIII.—VILLAGE WASTE-LANDS.

The provisions of this Chapter are altogether new, but their general policy is believed to be entirely in accordance with the views of the Government of India. They have been framed with the object of securing in suitable estates the management of a portion of the waste-land for the production of timber, fuel and fodder. The area to be so treated is not to exceed one-fifth of the waste, and power is taken by section 110 to make rules for its management on the part of the landowners. Both the order directing that certain areas shall be reserved for these purposes and the rules for their management will be issued by the Local Government, and provision is made that, before the issue of any such order, objections shall be invited and considered.

CHAPTER IX.—SURVEYS AND BOUNDARIES.

This Chapter contains the usual provisions for facilitating the survey of land for revenue purposes. Similar provisions are to be found in all the Land-revenue Acts of other provinces of Upper India, and these do not therefore seem to call for special notice. Some of the remedies for failure on the part of the landowners to erect and maintain boundary-marks, and the penalties for wilfully destroying, injuring or removing such marks after they have been set up, are of a summary nature, the object being to avoid the necessity for the institution of criminal proceedings except where really required by the gravity of the case.

CHAPTER X.—SUPPLEMENTAL PROVISIONS.

This Chapter deals with matters for which provision could not conveniently be made in other parts of the Bill. Of these the following are the most important. The first is that contained in sections 126 and 127. So long as civil, criminal and revenue jurisdiction was vested in the same officers, the subordinate revenue establishments, from the Tahsildars downwards, were at the disposal of the Courts for the execution of processes relating to land and its produce. But civil and revenue jurisdiction now vests, for the most part, in separate officers; and consequently the officers presiding over Civil Courts have no longer at their command any organized agency by which those processes can be executed. The object of these sections is to supply this deficiency by continuing the practice which existed before the passing of the Courts Act of 1884. By them the orders of Civil Courts relating to land and the rents and produce thereof will, as before, be executed by the Revenue-officers and their establishments, and the necessity for creating a separate agency for this purpose will be avoided.

By another section (128) the same power is given to a Revenue-officer, in cases of dispute, of dividing produce between co-sharers, as that which has always been possessed by him for the division of produce between landlord and tenant.

Section 129 confers the powers to make rules which are necessary for the proper working of the Act, and section 132 defines the matters in regard to which the jurisdiction of the Civil Courts will be barred. No material change has been made in respect of either of these subjects.

In section 133 provision has been made to meet the uncertainties attaching to jurisdiction in cases relating to alluvial lands on the larger rivers where they form the boundary between districts.

Lastly, section 134 declares that all records and papers which a village-officer is required by law to prepare and keep shall be the property of Government, and makes suitable provision for their production and proof. The object of this section is to render unnecessary the inconvenient practice of summoning patwáris merely for the purpose of proving the authenticity of papers prepared or kept by them.

The 12th July, 1886.

W. G. DAVIES.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 31, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th July, 1886, and was referred to a Select Committee on the 14th idem :—

No. 13 OF 1886.

A Bill to amend the Indian Companies Act, 1882.

WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows :—

1. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely :—

“200A. (1) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—
Wages and salaries to be preferential claims and to rank equally.”

“(a) all wages or salary of any clerk or servant in respect of services rendered to the company within the four months next before the commencement of the winding up, not exceeding five hundred rupees for each clerk or servant; and

“(b) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the four months next before the commencement of the winding up.

“(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

“(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or liquidators or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or liquidators or official liquidator.”

STATEMENT OF OBJECTS AND REASONS.

THE attention of the Government of India has been drawn, by a recent decision of Mr. Justice Scott of the Bombay High Court (I. L. R. 10 Bom. 211), to the absence of any provision in the Indian Companies Act, 1882 (Act VI of 1882), similar to that contained in section 4 of the Statute 46 & 47 Vic., cap. 28, under which, in the distribution of the assets of any company being wound up, the wages of clerks and workmen are, subject to certain restrictions, given priority over other debts. With the view of remedying this defect in the Indian law, the present Bill has been prepared. While following generally the lines of the English Statute, the Bill adopts the modifications of the law regarding the priority of the wages of workmen, in the case of the bankruptcy of private employers, made by section 40 of the English Bankruptcy Act, 1883 (46 & 47 Vic., cap. 52). As these provisions of the English Bankruptcy Act have been followed in the Indian Bankruptcy Bill now before the Legislative Council of the Governor General, it seems desirable that the amendment which this Bill makes in the Indian Companies Act should be drawn so far as possible in identical terms.

The 7th July, 1886.

C. P. ILBERT.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th July, 1886, and was referred to a Select Committee:—

NO. 14 OF 1886.

THE PUNJAB LAND-REVENUE BILL.

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A Bill to declare and amend the Land-revenue Law of the Punjab.

WHEREAS it is expedient to amend the law in force in the Punjab with respect to the powers of Revenue-officers and Revenue Courts, the maintenance of records-of-rights in land, the assessment and collection of land-revenue, and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, local extent and commencement. 1. (1) This Act may be called the Punjab Land-revenue Act, 1886. [Act XXXIII, 1871, s. 1.]

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the Punjab and its Dependencies, including the pargana of Spiti, but not so as to affect any Regulation made under the provisions of the Statute 33 Victoria, chapter 3, for any portion of those territories; and [Regulation I of 1873, s. 14.]

(3) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may by notification appoint in this behalf.

(4) Any power conferred on the Local Government or the Financial Commissioner to make rules, or on the Local Government to issue orders, make appointments or confer powers, may be exercised at any time after the passing of this Act; but a rule, order, appointment or power so made, issued or conferred shall not take effect till the commencement of this Act.

2. (1) The enactments mentioned in the schedule to this Act are repealed to the extent specified in the third column thereof.

(2) But all rules, appointments and assessments made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records framed, revised or confirmed, rights acquired, liabilities incurred, and times and places appointed under any of the repealed enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred and appointed under this Act; and

(3) All suits, appeals, applications and proceedings instituted, made or commenced under any of those enactments and pending at the commencement of this Act shall be deemed, so far as may be, to have been instituted, made and commenced under this Act.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "land" means land assessed or liable to be assessed to land-revenue, or whereof the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, and all land the property of Government not within the site of any town or village; [Act XVIII, 1884, s. 3.]

(2) "estate" means any area—

(a) for which a separate record-of-rights has been framed; or [Act XXXIII, 1871, s. 1; Act XIX, 1873, s. 3; and Act VIII, 1879, s. 2.]

The Punjab Land-revenue Bill.
(Chapter I.—Preliminary.—Sections 4-9.)

- (b) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed; or
- (c) which the Local Government may, by general rule or special order, declare to be an estate:

(3) "tenant," "landlord," "rent," "arrear of rent" and "tenancy" have the meanings respectively assigned to those expressions in the Punjab Tenancy Act, 1886:

[Cf. Act VIII, 1879, ss. 11 and 12.] (4) "landowner" includes any person, other than a tenant, in possession of an estate or any share or portion thereof, or in enjoyment of any part of the profits of an estate:

(5) "holding" means a share or portion of an estate held by one landowner or jointly by two or more landowners:

(6) "arrear of land-revenue" means land-revenue which remains unpaid after the date on which it becomes payable:

(7) "defaulter" means a landowner liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear:

(8) "village-officer" includes a chief-headman, a headman and a patwari:

V of 1878. XX of 1883. (9) "village-cess" includes any cess other than (a) the cess or other impost leviable under this Act for the maintenance of village-officers, and (b) any rate, tax or fees leviable under the Punjab Local Rates Act, 1878, or Punjab District Boards Act, 1883:

[Act XVIII, 1881, s. 4.] (10) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may in the case of any local area appoint:

[Act XIX, 1873, s. 3, and rules under Act XXXIII, 1871, F II 28.] (11) "incumbrance" means a charge upon or claim against land arising out of a private grant or contract:

[Cf. Act XVIII, 1881, s. 4.] (12) "recognized agent" means a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in the proceeding, or belonging to any class which the Local Government may by notification authorize in this behalf:

[Cf. Act XVIII, 1881, s. 4.] (13) "legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue-agent: and

(14) "notification" means a notification published by authority of the Local Government in the official Gazette.

[Act VI, 1867; Act XIX, 1873, s. 14; and Act X, 1882, s. 7.] 4. The Local Government may vary the limits of the tahsils, districts and divisions into which the territories administered by it are divided, and may alter the number of those tahsils and, with the previous sanction of the Governor General in Council, the number of those districts and divisions.

CHAPTER II.

REVENUE-OFFICERS AND REVENUE COURTS.

Classes and Powers.

5. There shall be the following classes of Revenue-officers, namely:—
Classes and grades of Revenue-officers.

- (a) the Financial Commissioner, who shall, subject to the control of the Local Government, be the chief controlling revenue-authority;
- (b) the Commissioner, who shall be the chief revenue-authority within a division;
- (c) the Deputy Commissioner, who shall be the chief revenue-authority within a district; and
- (d) subordinate Revenue-officers, who may be ranged in the following grades, namely:—
- (i) the Assistant Commissioner;
 - (ii) the Extra Assistant Commissioner;
 - (iii) the Tahsildar; and
 - (iv) the Naib-tahsildar.

6. (1) The Financial Commissioner shall be appointed and may be re-appointed by the Local Government with the previous sanction of the Governor General in Council.

(2) The Local Government may, with the like sanction, appoint a second Financial Commissioner, who shall hold his office during the pleasure of the Local Government.

(3) When a second Financial Commissioner is appointed, the Local Government may make rules as to the distribution of business between the two Financial Commissioners.

7. (1) Commissioners, Deputy Commissioners, Assistant Commissioners and Extra Assistant Commissioners shall be appointed and may be removed by the Local Government.

(2) The Local Government may, if it thinks fit, appoint the same person to be Deputy Commissioner of two or more districts.

8. The Local Government shall fix the number of Tahsildars and Naib-tahsildars to be appointed, and when there is a vacancy in that number the Financial Commissioner may, subject to rules made by him with the previous sanction of the Local Government, appoint such person to fill the vacancy as he thinks fit.

9. Applications and proceedings of the following classes shall be disposed of by Revenue-officers, and not otherwise:—

- (a) proceedings relating to the enhancement and reduction of rents under sections 10, 14, 15, 16 and 17 of the Punjab Tenancy Act, 1886;
- (b) applications under sections 11 and 12 of that Act for the commutation and conversion of rents;
- (c) proceedings relating to the remission and suspension of rent under section 19 of that Act;

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- (d) applications under sections 20, 21 and 22 of that Act with respect to the division of produce and the estimate and appraisement of crops ;
- (e) applications under section 23 of that Act with respect to relinquishment of tenancies ;
- (f) applications under section 25 of that Act for determination of rent payable for land occupied by crops uncut at the time of an order being made for the ejectment of a tenant ;
- (g) applications under sections 27 and 28 of that Act for ejectment of tenants having a right of occupancy ;
- (h) applications under section 29 of that Act for the service of notices of ejectment on, and the ejectment of, tenants not having a right of occupancy ;
- (i) applications under section 30 of that Act for the ejectment of tenants not having a right of occupancy ;
- (j) applications under section 34 of that Act for the fixing of the value of a right of occupancy ;
- (k) applications under sections 34 and 36 of that Act for the ejectment of a tenant or other person in occupation of land subject to a right of occupancy sought to be transferred ;
- (l) proceedings relating to the award of compensation for improvements or disturbance under Chapter VI of that Act ; and
- (m) applications and proceedings which a Revenue-officer is by this Act empowered to dispose of.

10. (1) Suits of the classes described in sub-section (3) of this section shall be instituted before, and heard and determined by, Revenue-officers and not otherwise.

(2) When a Revenue-officer is exercising jurisdiction with respect to a suit of any of those classes, or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(3) The classes of suits referred to in this section are the following, namely :—

- (a) suits for arrears of rent on account of land, or of any payments due on account of rights of pasturage, forest-rights, fisheries or the like ;
- (b) suits for the recovery of any over-payment of rent ;
- (c) suits for sums payable by co-sharers on account of land-revenue or of village-expenses or other dues for which the co-sharers in an estate or holding are, as such, responsible ;
- (d) suits by co-sharers for their share of the profits of an estate or part thereof after payment of the land-revenue and village-expenses and other dues, or for a settlement of accounts ;
- (e) suits by assignees of land-revenue for arrears of land-revenue due to them as such ;
- (f) suits by superior proprietors for arrears of land-revenue or other sums due to them as such ;
- (g) suits to establish a claim to a right of occupancy, or to prove that a tenant has not a right of occupancy ;

- (h) suits to eject a tenant from land on the ground that he has used the land in a manner inconsistent with the conditions on which he holds it, or on the ground that he has omitted to use the land in the manner required by those conditions ;
- (i) suits under section 29 of the Punjab Tenancy Act, 1886, to contest liability to be ejected when notice of ejectment has been served ;
- (j) suits under section 9 of the Specific Relief Act, 1877, to recover possession of land, or by a tenant otherwise than under that Act to recover the occupancy of land of which he has been wrongfully dispossessed ;
- (k) suits for compensation for wrongful dispossession from a tenancy ;
- (l) suits relating to the alienation of, or succession to, a right of occupancy in a tenancy ;
- (m) suits to determine disputes regarding boundaries of land which have been fixed by a Court or Revenue-officer or defined in a record-of-rights ; and
- (n) suits between landlord and tenant, as such, or between tenant and tenant, as such, which have not been specified in the foregoing part of this section.

11. (1) In either of the following cases, namely :—

Power of Chief Court to validate proceedings had under mistake as to jurisdiction.

(a) if it appears to a Civil Court that a Court under its control has

determined a suit of a class mentioned in section 10, which, under the provisions of that section, should have been heard and determined by a Revenue Court, or

(b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the Chief Court.

(2) If on perusal of the record it appears to the Chief Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the Chief Court may direct that the decree be registered in the Court which had jurisdiction ; and thereafter it shall have effect as if it had been made by that Court.

(3) With respect to any proceedings subsequent to the decree, the Chief Court may make such order for their registration in, or transfer to, a Revenue Court or Civil Court as in the circumstances appears to it to be just and convenient to the parties.

(4) If it appears to the Chief Court, otherwise than on submission of a record under this section, that a Civil Court under its control has determined a suit of a class mentioned in section 10, which, under the provisions of that section, should have been heard and determined by a Revenue Court, the Chief Court may pass any order which it might have passed if the record had been submitted to it under the foregoing provisions of this section.

12. There shall be the same classes and grades of Revenue Courts as of Revenue-officers, namely :—

(a) the Court of the Financial Commissioner ;

Act VIII, 1884, s. 42.]

Act 42 & 43, s. 49, s.

Act XVIII, 1884, s. 45.]

[New. Cf. Act XII, 1881, s. 205.]

[Act XXXIII, 1871, s. 2 ; and Act XVIII, 1884, s. 3 (2).]

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- (b) the Court of the Commissioner;
(c) the Court of the Deputy Commissioner;
and
(d) the Courts of subordinate Revenue-officers, which may be ranged in the following grades, namely:—
(i) the Court of the Assistant Commissioner;
(ii) the Court of the Extra Assistant Commissioner;
(iii) the Court of the Tahsildar; and
(iv) the Court of the Naib-tahsildar.

13. (1) Except where, in the case of a Revenue-officer, the class of the officer by whom any function is to be discharged is expressly stated in this Act, the Local Government may by rule or notification determine the powers to be exercised by any Revenue-officer or Revenue Court.

[Cf. Act XVIII, 1884, s. 26 (1).] (2) The powers may be determined with reference to the class or value of cases or otherwise as the Local Government thinks fit.

(3) The Local Government may confer powers on a person by name or by virtue of his office, and on any class or grade of Revenue-officers or Revenue Courts by designation of the class or grade.

[Cf. Act IX, 1883, s. 3 (9).] (4) The expression "prescribed Revenue-officer" in any provision of this Act means a Revenue-officer empowered by the Local Government to discharge the functions of a Revenue-officer under that provision.

[Cf. Act XVIII, 1884, s. 28.] 14. (1) The Local Government may, with Special Revenue-officers, respect to particular classes of cases or cases generally in any local area, appoint any person to be a Revenue-officer of any class specified in clause (b), clause (c) or clause (d) of section 5, and may suspend or cancel the appointment.

(2) When a person is so appointed to be a Revenue-officer of any one of those classes, he shall, subject to the orders of the Local Government, be deemed to be a Revenue-officer of that class for all purposes.

Administrative Control.

[Cf. Act XVIII, 1884, s. 56.] 15. (1) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner.

[Act XVIII, 1884, s. 56.] (2) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers and Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner, a Deputy Commissioner shall control all other Revenue-officers and Revenue Courts in his district.

[Cf. Act XVIII, 1884, s. 58.] 16. The Financial Commissioner or a Commissioner or Deputy Commissioner may by written order direct that any business cognizable by any Revenue-officer or Revenue Court under his control shall be distributed in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any officer or Court to exercise any powers or deal with any business beyond the limits of his or its proper jurisdiction.

17. (1) The Financial Commissioner or a Commissioner or Deputy Commissioner may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or refer it for disposal to any other Revenue-officer under his control and having power to dispose of the same.

(2) A Commissioner or Deputy Commissioner may exercise, as regards the Revenue Courts under his control, the same powers as he may exercise under sub-section (1) as regards the Revenue-officers under his control.

18. A Deputy Commissioner may, with the Delegation of powers by Deputy Commissioner, previous sanction of the Local Government, delegate to any Assistant Commissioner in his district the powers conferred on the Deputy Commissioner by sections 15, 16 and 17, to be exercised by the Assistant Commissioner in any specified part of the district, subject to the control of the Deputy Commissioner.

Appeal, Review and Revision.

19. An appeal shall lie from any order made on an application or other proceeding mentioned in section 9, or from any decree or order made in a suit described in section 10—

- (a) to the Deputy Commissioner when the order or decree is made by a subordinate Revenue-officer;
(b) to the Commissioner when the order or decree is made by a Deputy Commissioner;
(c) to the Financial Commissioner when the order or decree is made by a Commissioner:

Provided that—

- (a) when the original order or decree of a Revenue-officer or Revenue Court is confirmed on appeal, a further appeal shall not lie;
(b) when any such order or decree is modified or reversed on appeal, a further appeal shall lie to the Financial Commissioner; and
(c) an appeal shall not lie from a decree or order made in a suit under section 9 of the Specific Relief Act, 1877, to recover possession of land.

20. (1) Except as provided by sub-section (2) of this section, an appeal shall not lie—

- (a) in the Court of the Deputy Commissioner—after the expiration of thirty days from the date of the order or decree complained of;
(b) in the Court of the Commissioner—after the expiration of sixty days from that date; or
(c) in the Court of the Financial Commissioner—after the expiration of ninety days from that date.

(2) In computing these periods of thirty, sixty and ninety days, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

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XVIII, s. 26.] **21.** (1) Subject to the other provisions of this Chapter, the Financial officers and Revenue Courts.

Review by Revenue-officer or Revenue Court may modify or reverse any order passed by himself or his predecessor in office, and

any other Revenue-officer may, with the previous sanction of the Revenue-officer to whose control he is immediately subject, modify or reverse any order passed by himself or his predecessor in office.

(2) A decree or order of a Revenue Court may be reviewed in accordance with the procedure prescribed for that Court by or under this Act, and not otherwise.

XXIII, s. 65; XIX, s. 253; Act 1881, s. 24 and **22.** (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court subordinate to him.

(2) A Commissioner or Deputy Commissioner may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control.

(3) If in any case in which a Commissioner or Deputy Commissioner has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under sub-section (1) or reported to him under sub-section (3) pass such order as he thinks fit:

Provided that he shall not under this section pass an order affecting any question of right between private persons without having given the parties interested an opportunity of being heard.

Procedure.

XIX, s. 208.] **23.** (1) A Revenue-officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business.

(2) A person so summoned shall be bound to attend at the time and place mentioned in the summons, either in person or by his recognized agent or a legal practitioner, as the Revenue-officer or Revenue Court may direct, and to state the truth upon any subject respecting which he is examined or makes statements, and to produce such documents and other things as the Revenue-officer or Revenue Court may require.

(3) A summons issued by a Revenue-officer or Revenue Court shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him (b) on his recognized agent or the manager or agent through whom he usually transacts business, or (c) on an adult male member of his family usually residing with him.

(4) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by fixing up a copy thereof at the usual place of residence of the person to whom it is addressed, or, if he does not reside in the district but has an interest in land therein, by posting a copy in some conspicuous place in the village in which the land is situate.

(5) If the summons relates to a case in which two or more persons are jointly concerned, the service may, if the Revenue-officer or Revenue Court so directs, be made on one of those persons for himself and for the other or others.

(6) If the Revenue-officer or Revenue Court is satisfied that service can be more conveniently made through the post by registered letter, or by any other method prescribed in the Code of Civil Procedure for the service of a summons, the summons may be so served.

24. A notice or order issued by a Revenue-officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

25. In addition to any other mode of publication which may be prescribed in any provision of this Act, a proclamation issued by a Revenue-officer or Revenue Court shall be made by beat of drum or other customary method, and by the posting of a copy of the proclamation, in the language of the office or Court, in a conspicuous place on the property to which the proclamation relates.

26. Appearances before a Revenue-officer or Revenue Court, and applications to, and acts to be done before, any such officer or Court, may be made or done—

(a) by the parties themselves, or

(b) with the permission of the officer or Court, by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer or Court.

27. The fees of a legal practitioner shall not be allowed as costs before any Revenue-officer or Revenue Court, unless that officer or Court considers, for reasons to be recorded by him or it in writing, that the fees should be allowed.

28. (1) Subject to the other provisions of this Act, the Local Government may by order invest any Revenue-officer with any powers exercisable by a Civil Court under the Code of Civil Procedure, and may direct that any provisions of that Code shall apply with or without modification to all or any classes of cases before Revenue-officers.

(2) Subject to any orders made by the Local Government under sub-section (1), that Government may make rules consistent with this Act for regulating the procedure of Revenue-officers in cases in which a procedure is not prescribed by this Act.

(3) Subject to any orders or rules made under sub-section (1) or sub-section (2), a Revenue-officer may refer any case which he is empowered to dispose of under section 9 to any Revenue-officer under his control for investigation and report, and may decide the case upon the report.

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[Act XVIII,
1884, s. 53.]

29. (1) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby; and may, by any such rule, direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue Courts.

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(2) Until rules are made under this section, and subject to those rules when made and to the provisions of this Act,—

(a) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the Court of the Financial Commissioner shall, in respect of those cases, be deemed to be the High Court within the meaning of the said Code, and shall exercise, as regards the Courts under its control, all the powers of a High Court under that Code.

[Act XVIII
1884, s. 54.]

30. (1) If, in any suit pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Revenue Court (if any) to the control of which it is immediately subject, by order in writing, require any party to the suit to institute, within such time as it may fix in this behalf, a suit in the Civil Court with a view to obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall, in disposing of the suit pending before it, be guided by the final decision of the Civil Court of first instance or appeal, as the case may be, on that question.

Supplemental Provisions.

31. (1) The Local Government may fix the place or places at which any Revenue-officer or Revenue Court is to transact business.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the officer or Court.

(3) Except as may be otherwise provided by an order under this section, a Revenue-officer or Revenue Court may transact business at any place within those limits.

32. The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

[Act XIX,
1873, s. 21;
Act XVIII,
1881, s. 12.]

33. When a Revenue-officer, not being a person appointed under section 14, is transferred from one local area in which he has jurisdiction to another, he shall, unless the Local Government otherwise directs, exercise in

the local area to which he is transferred all the powers which he was legally competent to exercise as a Revenue-officer or Revenue Court in the local area from which he is transferred.

34. When a Deputy Commissioner dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Deputy Commissioner under this Act.

CHAPTER III.

KÁNÚNGOS, ZAILDÁRS AND VILLAGE-OFFICERS.

35. The Financial Commissioner may, with the previous sanction of the Local Government, make rules to regulate the appointment, duties, remuneration, punishment, suspension and removal of kánungos, zaildárs and village-officers.

36. (1) The Local Government may by notification impose on any estate, or on all or any estates in any local area, a cess, to be called the village-officers' cess, at a rate not exceeding one anna for every rupee of the annual value for the remuneration of village-officers and for the defrayment of other expenditure directly connected with the supervision of those officers or with the performance of their duties.

Provided that all arrangements now in force in any local area for the purposes mentioned in this sub-section shall be deemed to have been lawfully made, and shall be maintained until the Local Government imposes the village-officers' cess in that local area under this section.

(2) "Annual value" in this section has the meaning assigned to that expression in the Punjab District Boards Act, 1883.

(3) The Financial Commissioner, with the previous sanction of the Local Government, may make rules for the administration of the proceeds of the village-officers' cess.

37. (1) The remuneration of a zaildár or village-officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court.

(2) Every assignment of, and every charge on, and every agreement to assign or charge, any such remuneration shall be void.

CHAPTER IV.

RECORDS.

Record-of-rights.

38. Save as otherwise provided by this Chapter, a separate record-of-rights shall be made and maintained for each estate.

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(Chapter IV.—Records.—Sections 39-46.)

Act XXXIII,
71, s. 14.]

Documents to be included in record-of-rights.

39. The record-of-rights for an estate shall include the following documents :—

- (a) statements showing, so far as may be practicable,—
 - (i) the persons who have rights in the estate or in any share or portion thereof, whether as landowners or tenants or in any other capacity, and the persons who are entitled to enjoy the rent, land-revenue or produce of the estate or of any share or portion thereof;
 - (ii) the extent and limits of the interests of those persons, and the conditions and liabilities attaching to those interests; and
 - (iii) the rent, land-revenue, rates, cesses or other payments due from and to each of those persons and to the Government;
- (b) a statement of customs respecting joint rights and liabilities in the estate;
- (c) a map of the estate in sufficient detail to illustrate the foregoing statements; and
- (d) such other documents as the Financial Commissioner, with the previous sanction of the Local Government may prescribe.

Act XXXIII,
71, s. 15;
Act XIX,
73, s. 90;
Act XVIII,
81, s. 80.]

40. The Financial Commissioner shall prescribe the language in which the record-of-rights is to be made, the form of the documents included in it, and the manner in which those documents are to be prepared, signed and attested.

Act XXXIII,
71, ss. 7 and 8.]

41. (1) When it appears to the Local Government that a record-of-rights for an estate does not exist, or that the existing record-of-rights for an estate requires revision, it may by notification direct that a record-of-rights be made or that the record-of-rights be revised, as the case may be, and may further direct by the notification that for that purpose a survey be made.

(2) The notification may be with respect to records-of-rights generally for all or any estates for which they are to be made or revised in any local area.

(3) The notification shall, with respect to the local area to which it relates, be held, for the purposes of section 62 of the Punjab Courts Act, 1884, to be a notification declaring a settlement of land-revenue to be in progress in that local area.

Act XIX,
72, s. 67.]

42. If during the making or revision of a record-of-rights a dispute arises as to any matter of which an entry is to be made therein, the prescribed Revenue-officer may of his own motion, but subject to the provisions of the next following section, and after such inquiry, if any, as he thinks fit, determine the entry to be made as to that matter.

Act XXXIII,
71, s. 12.]

43. When a record-of-rights is under revision it shall not be altered otherwise than by—

- (a) making an entry in accordance with facts which have occurred since the record under revision was made or last revised;

(b) making such entries as are agreed to by all the parties interested therein, or are supported by a judicial decision;

(c) making new maps, where it is necessary to make them, and so amending such of the documents included in the record as are affected thereby that they may accord with those maps:

Provided that an entry as to the rights, interests or liabilities of a person shall not be altered except in the circumstances referred to in clause (a) or clause (b) of this section.

44. (1) A report of the completion of every record-of-rights made or revised under this Chapter shall be submitted to the Local Government, and, when the Local Government has by notification confirmed the record, all entries therein shall be presumed to be true until the contrary is proved or the record has been revised under this Chapter.

(2) The report and the notification may be with respect to the records-of-rights generally for all or any estates for which they have been made or revised in any local area.

45. (1) When in any record-of-rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the landowners, it shall be presumed to belong to the Government.

(2) When in any record-of-rights completed after that date it is not expressly provided that any forest, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the Government, it shall be presumed to belong to the landowners.

(3) The presumption created by sub-section (1) may be rebutted by showing—

- (a) from the report made by the assessing officer at the time of assessment, or
- (b) if the report is silent, then from a comparison between the assessment of villages in which any forest, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land did exist, and the assessment of villages of similar character in which any such accessory interest did not exist,

that the forest, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest was taken into account in the assessment of the land-revenue.

(4) Until the presumption is so rebutted, the accessory interest shall be held to belong to the Government.

(5) When the presumption is so rebutted, the accessory interest taken into account in the assessment shall be held to belong to the landowners.

46. (1) Unless it is otherwise expressly provided in a record-of-rights or by the terms of a grant made by the Government, the right to all mines, minerals, coals, earth-oil, quarries and gold-washings, and to all fisheries in navigable rivers, shall, notwithstanding anything contained in the last foregoing section, be deemed

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to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of the right.

(2) Whenever, in the exercise of the right by the Government, the rights of any persons are infringed by the occupation or disturbance of the surface of any land, the Government shall pay to those persons compensation for the infringement.

(3) Subject to any rules made in this behalf by the Local Government, the amount of the compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.

Exceptional Provision with respect to Record-of-rights.

[Act VIII, 1881, s. 79.]

47. (1) The Financial Commissioner may direct that a record-of-rights shall be made for any group of neighbouring estates instead of separately for each of the estates.

(2) The provisions of this Chapter with respect to a record-of-rights for an estate shall then apply so far as they can be made applicable to a record-of-rights for a group of estates.

Other Record Operations.

(i) VILLAGE-CESSSES.

[Act XVIII, 1881, s. 76;
Act XIX, 1873, s. 66.]

48. (1) At any time while a record-of-rights is being made or revised and before it is confirmed the Local Government may regulate the rate and conditions of any village-cess, or altogether forbid the levy thereof, and may direct that the record be framed accordingly.

(2) A village-cess shall not be recoverable in any Court unless it is entered in the record-of-rights last made or revised, and confirmed, for the estate in which it is claimed to levy the cess.

(3) The Local Government may direct that the whole or any portion of a village-cess entered in the record-of-rights of an estate shall be expended upon conservancy, police or other objects declared by it to be for the benefit of the estate.

(4) In case of doubt the Local Government may declare what shall be deemed to be a village-cess within the meaning of this section.

(ii) PARTITION PROCEEDINGS.

49. Except with the express consent of the Financial Commissioner, to be obtained in each case, no agreement or proceedings for the partition of land held in joint ownership shall affect the joint liability of the land or of the owners thereof for the land-revenue assessed thereon, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties interested.

[Rules under Act XXXIII, 1871, Rule E II.]

50. (1) Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to the prescribed Revenue-officer for partition of his share in the land or tenancy, as the case may be.

(2) The Revenue-officer shall admit the application if it is in accordance with—

- (a) a decree of Court, or
- (b) an agreement of the sharers, or
- (c) an entry in the record-of-rights:

Provided that, if either or any of the sharers objects that any entry in the record-of-rights relating to their shares is incorrect or not in accord with existing facts, the Revenue-officer shall defer for three months making an order on the application.

(3) If within the period of three months the objector institutes a suit for the purpose of establishing his objection, the proceedings shall be further stayed till the final disposal of the suit.

(4) If within that period the objector does not institute a suit for that purpose, the Revenue-officer may admit the application.

(5) Subject to the foregoing provisions of this section, the Revenue-officer may dispose of any question arising in the proceedings.

(6) The Revenue-officer may for sufficient reason disallow a partition in whole or in part.

(7) The fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may be a sufficient reason for the disallowance of the partition unless the tenant assents to the severance.

(8) A person to whom any land or portion of a tenancy is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and persons deriving title from them.

51. When by established custom the land held by each landowner in an estate is subject to periodical re-distribution, the prescribed Revenue-officer may on the application of the landowners enforce the re-distribution according to the custom, and for this purpose may exercise all the powers of a Revenue-officer in proceedings for partition.

Re-distribution of land according to custom.

(iii) OTHER CHANGES SUBSEQUENT TO MAKING OR REVISION OF RECORD-OF-RIGHTS.

52. (1) Within six months after any person other than a tenant from year to year has entered into possession of any land, either as landowner or tenant, he shall report the event to the village-officer appointed by the Financial Commissioner in this behalf.

(2) If that person fails to make the report within the six months, he shall be liable, in the discretion of the prescribed Revenue-officer, to a fine which may extend to one rupee for every day during which the default continues after the expiration of that period, but is not to exceed fifty rupees in any case.

53. (1) For each estate or group of estates for which a record-of-rights has been prepared, a register of all changes affecting entries in that record with respect to rights of landowners and of tenants having a right of occupancy shall be kept by such person and in such form, and be attested by such authority and at such times and in such manner, as the Financial Commissioner may by rules in this behalf prescribe.

(2) The Local Government may fix a scale of fees for the attestation of all or any classes of entries in the register.

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(Chapter V.—Assessment.—Sections 54-60.)

(3) The fee fixed in that scale for the attestation of an entry shall be payable by the person entering into possession of the land to which the entry relates.

XXXIII.
ss. 39 to 54. (1) Annual records shall be prepared for each estate by the village-officer appointed by the Financial Commissioner in this behalf.

(2) An entry at variance with the record of rights respecting the rights of a landowner or of a tenant having a right of occupancy shall not be made in the annual records unless an entry of the change which forms the subject of the entry in those records has been made and attested in the register kept under the last foregoing section.

(3) The Financial Commissioner may issue rules for the preparation of the annual records, for the survey of estates so far as may be necessary for the preparation of those records, for the correction of village-maps, for the survey by village-officers of land which is affected by the action of water or sand or of which the maps are found to be incorrect, and, generally, for the guidance of Revenue-officers and village-officers in these matters.

CHAPTER V.

ASSESSMENT.

Rules of General Application.

XVIII.
s. 46.] 55. Land-revenue shall be assessed on each estate in cash or in kind for such period and in such form as, subject to confirmation by the Governor General in Council of any orders made in this behalf, the Local Government may, with respect to any estate or any class of estates or estates generally in any district or tahsil, direct.

XIX.
s. 146.] 56. In the case of every estate, the entire estate and the landowner, or all the landowners jointly and severally, as the case may be, shall be liable for the land-revenue for the time being assessed on the estate:

Provided, that—

- (a) with respect to any estate or to any class of estates or estates generally in any local area, the Local Government, with the previous sanction of the Governor General in Council, may by notification declare that neither the land of a landowner nor the landowner himself shall be liable for the land-revenue assessed on a holding of which he is not a landowner; and
- (b) when there are superior and inferior landowners in the same estate, the Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior landowners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions.

57. (1) The land-revenue for the time being assessed on an estate or holding shall be the first charge upon the rents and produce thereof.

(2) Without the previous consent of the Deputy Commissioner, the rents or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the instalment of land-revenue next falling due in respect of the estate or holding, and any arrear of land-revenue due in respect thereof, have been paid, or be liable to continue to be so taken unless the land-revenue payable in respect of the estate or holding is paid in advance of the collection of the rents or the removal of the produce.

(3) The Deputy Commissioner may prevent any produce from being removed from the land on which it was grown until the instalment of land-revenue next falling due in respect of that land, and any arrear of land-revenue due in respect thereof, have been paid.

58. (1) A general re-assessment of the land-revenue of a district or tahsil shall not be undertaken without the previous sanction of the Governor General in Council.

(2) The Local Government shall notify that sanction in the official Gazette, and the notification shall, with respect to the district or tahsil to which it relates, be held, for the purposes of section 62 of the Punjab Courts Act, 1884, to be a notification declaring a settlement of land-revenue to be in progress in the local area comprised in that district or tahsil.

(3) In granting the sanction, the Governor General in Council may prescribe such principles of assessment and give such other instructions as he thinks fit.

59. (1) The assessment shall be made by the Deputy Commissioner.

(2) Before making it the Deputy Commissioner shall report his proposed rates and method of assessment for the sanction of the Financial Commissioner in such form as the Financial Commissioner, with the previous sanction of the Local Government, may prescribe.

(3) The rates and method of assessment proposed by the Deputy Commissioner shall be consistent with the principles prescribed, and the other instructions given, by the Governor General in Council.

60. (1) When the Deputy Commissioner has obtained the sanction of the Financial Commissioner to his proposed rates and method of assessment, he shall make an order determining the assessment proper for each estate and announce it to the landowner or landowners of the estate in such manner as the Local Government may prescribe.

(2) At the time of announcing the assessment, he shall also declare the date from which it will have effect.

(3) An assessment thus announced shall be subject to confirmation by the Local Government.

The Punjab Land-revenue Bill.
(Chapter V.—Assessment.—Sections 61-69.)

61. (1) A landowner may, within thirty days from the date of the announcement of the assessment, present a petition to the Deputy Commissioner praying for a re-consideration of the amount, form or conditions of the assessment, and stating the grounds of his objection.

(2) Where the land-revenue is assigned, the assignee thereof may within thirty days from that date present a like petition to the Deputy Commissioner.

(3) When the Deputy Commissioner receives a petition under this section, he shall pass an order granting or refusing the petition, and stating his reasons for the order.

62. At any time before the assessment is confirmed by the Local Government, the Commissioner, Financial Commissioner or Local Government may modify it or direct its modification.

63. Subject to any modification under either of the two last foregoing sections, the assessment announced under section 60 shall be the assessment of the estate with effect from the date declared under that section, and, subject to the other provisions of this Act, shall continue in force until it is revised.

64. (1) At any time before the expiration of thirty days from the date on which the assessment of an estate takes effect, the landowner or, where there are two or more landowners, their headman or all their headmen, as the case may be, may give notice to the Deputy Commissioner of refusal to be liable for the assessment.

(2) When the Deputy Commissioner receives a notice under sub-section (1), he may take possession of the estate and deal with it as nearly as may be as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

(3) While the estate is in the possession of the Deputy Commissioner, the landowner or landowners shall be entitled to receive from the Government an allowance, to be fixed by the Financial Commissioner, which shall not be less than five or more than ten per cent. of the net income realised by the Government from the estate.

65. (1) The Deputy Commissioner shall, after the assessment of an estate has been announced, cause a record to be made and published showing, according to the nature of the ownership of the estate, the amount or share of the land-revenue for the payment of which each landowner is liable, and the rents, rates, cesses or other payments due from and to the persons who have rights in the estate or in any share or portion thereof, whether as landowners or tenants or in any other capacity, or who are entitled to enjoy the rent, land-revenue or produce of the estate or of any share or portion thereof.

(2) The Deputy Commissioner may for sufficient reason revise the record at any time during the currency of the assessment.

(3) In making or revising the record the wishes of the landowners shall be followed as far as may be practicable and equitable.

(4) The Financial Commissioner may make rules for the guidance of Deputy Commissioners acting under this section.

66. (1) Any person liable for or entitled to any payment under the record made under the last foregoing section may, within thirty days from the date of the publication of the record under that section, present a petition to the Deputy Commissioner praying for a re-consideration of the record so far as it affects him, and stating the grounds of his objection.

(2) When the Deputy Commissioner receives a petition under this section, he shall pass an order granting or refusing the petition, and stating his reasons for the order.

67. (1) Where a superior landowner is entitled to receive from an inferior landowner dues in kind or in cash of fluctuating quantity or amount, the Deputy Commissioner may commute those dues into a fixed percentage on the assessment.

(2) The Financial Commissioner may by special order direct that payments due to a superior landowner shall be collected on his behalf as land-revenue.

Rules with respect to excess Waste-land.

68. (1) If, in the opinion of the Financial Commissioner, the waste-land of an estate exceeds the requirements of the landowner or landowners for purposes of pasture or agriculture, the Financial Commissioner may direct any portion of that waste-land to be formed into a separate estate.

(2) When a separate estate has been formed under sub-section (1), the Deputy Commissioner shall assess it to land-revenue and announce the assessment in the manner prescribed under section 60.

(3) Notice of refusal to be liable for the assessment may be given in the manner mentioned in section 64 within thirty days from the date on which the assessment was announced.

(4) If notice is so given, the Deputy Commissioner may take possession of the estate so formed and declare the estate to be at the disposal of the Government.

(5) When the estate has been declared to be at the disposal of the Government, there shall be allowed to the person who was the landowner thereof such annual sum as the Financial Commissioner may direct, being not less than five or more than ten per cent. of the net income realised by the Government from the estate.

Miscellaneous Revenue.

69. Subject to any rules made by the Financial Commissioner with the previous sanction of the Local Government, land added by alluvion to an estate is liable to assessment, and may be assessed by the prescribed Revenue-officer.

[Cf. Act XXXIII, 1871, s. 36.]

[New.]

[Act XX, 1871, s.]

[Act XX, 1871, s.]

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 70-79.)

Assessment of land added by alluvion and of resumed and other lands, and assessment of miscellaneous revenue.

Act or to any of the following cases, namely:—

- (i) the assessment of land-revenue on estates formed under section 68;
- (ii) the assessment of land-revenue on lands of which the land-revenue was released or assigned and has been resumed;
- (iii) the assessment of land-revenue on waste-lands sold, leased or granted by the Government, or on other isolated areas;
- (iv) the revision of assessments of land-revenue due to the action of water or sand or to calamity of season;
- (v) the assessment of revenue due to the Government on account of pasturage or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other interests or rights described in section 45 or section 46, in cases in which the revenue so due has not been included in an assessment made under the foregoing provisions of this Chapter.

XIX, s. 257.] (2) The Financial Commissioner may, with the previous sanction of the Local Government, make rules for the guidance of the prescribed Revenue-officers in making and revising assessments under this section, and may confirm assessments so made and revised.

(3) The Financial Commissioner may incorporate in rules under sub-section (2) any of the provisions of this Chapter with such modifications as he deems necessary.

CHAPTER VI.

COLLECTION OF LAND-REVENUE.

XXXIII, s. 41. Act XIX, 1881, s. 132.] 71. (1) Notwithstanding anything contained in the record-of-rights of any estate or group of estates, the Financial Commissioner may fix the number and amount of the instalments, and the times, places and manner, by, at and in which land-revenue, whether payable direct to the Government or not, is to be paid.

(2) Until the Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and places and in the manner, by, at and in which it is payable when this Act comes into force.

72. The Financial Commissioner may, with the previous sanction of the Local Government, make rules to regulate the collection, remission and suspension of land-revenue, whether assigned or unassigned, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee, and fix the costs to be charged in respect of any process under this Chapter and in respect of the collection by the Government of assigned land-revenue.

Act 1881, s. 254. 73. An arrear of land-revenue shall bear such interest as the Governor General in Council may from time to time prescribe.

74. The costs of any process issued under this Chapter, and any interest chargeable on an arrear of land-revenue, shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued or the interest is chargeable. [Act XVIII, 1881, s. 112.]

75. A statement of account certified by the Revenue-officer shall be conclusive evidence of the existence of an arrear of land-revenue, of its amount, and of the person who is the defaulter. [Act XIX, 1873, s. 149; Act XVIII, 1881, s. 92.]

76. Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by the following processes:— [Act XIX, 1873, s. 150.]

- (a) by service of a writ of demand on the defaulter;
- (b) by arrest and detention of his person;
- (c) by distress and sale of his moveable property and crops, including any produce of which the Deputy Commissioner may under section 57 prevent the removal;
- (d) by transfer of the holding in respect of which the arrear is due;
- (e) by attachment of the estate or holding in respect of which the arrear is due;
- (f) by annulment of the assessment of that estate or holding;
- (g) by sale of that estate or holding;
- (h) by proceedings against other immoveable property of the defaulter.

77. A writ of demand may be issued by the prescribed Revenue-officer on or after the day following that on which an arrear of land-revenue accrues. [Act XIX, 1873, s. 151.]

78. (1) At any time after an arrear of land-revenue has accrued the prescribed Revenue-officer may issue a warrant directing an officer to be named therein to arrest the defaulter and to bring him before the Revenue-officer. [Act XXXIII, 1871, s. 43; Act XIX, 1873, s. 152; Act XVIII, 1881, s. 95.]

(2) The Revenue-officer may thereupon order the defaulter to be taken before the Deputy Commissioner, or may keep him under personal restraint for a period not exceeding ten days and shall then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

(3) When the defaulter is brought before the Deputy Commissioner, the Deputy Commissioner may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Deputy Commissioner thinks fit. [Act XXXIII, 1871, s. 43; Act XVIII, 1881, s. 96.]

(4) The process of arrest and detention shall not be executed against a defaulter who is a female, minor, lunatic or idiot.

79. (1) At any time after an arrear of land-revenue has accrued, the distress and sale of moveable property and crops of the defaulter may be distrained and sold. [Act XXXIII, 1871, s. 43.]

(2) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and

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(Chapter VI.—Collection of Land-revenue.—Sections 80-82.)

sale of moveable property under the decree of a Revenue Court:

Provided that, in addition to the particulars exempted by that law from liability to sale, seed-grain belonging to the defaulter, and so much of the produce of his land as the Deputy Commissioner thinks necessary for the subsistence, until the harvest next following, of the defaulter and his family and of any cattle exempted by that law, shall be exempted from sale under this section.

[Act XIX, 1873, s. 157; Act VIII, 1879, s. 14.] **80.** (1) At any time after an arrear of land-revenue has accrued on a holding, the Deputy Commissioner may transfer the holding, for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer to any person being a landowner of the estate in which the holding is situate and not being himself a defaulter, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Deputy Commissioner may see fit to prescribe.

(2) The Deputy Commissioner shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit.

(3) The transferee shall not either before or after the expiration of the term of the transfer be entitled to compensation for any improvements made by him on the holding or for any losses sustained by him by reason of the transfer.

(4) A transfer under this section shall not affect the joint and several liability of the landowners of the estate in which it is enforced.

(5) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

[Act XIX, 1873, ss. 154, 155 and 156.] **81.** (1) At any time after an arrear of land-revenue has accrued, the Deputy Commissioner may cause the estate or holding in respect of which the arrear is due to be attached and taken under the management of himself or of an agent appointed by him for that purpose.

(2) The Deputy Commissioner or the agent shall be bound by all the engagements which existed between the person who immediately before the attachment was in possession of the land attached, and the inferior landowners or tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of that person until the arrear has been satisfied, or until the Deputy Commissioner restores the land to the person whose interest was attached.

(3) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in defraying the arrear.

(4) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next fol-

lowing the date of the attachment, but, if the arrear is sooner liquidated, the land shall be released and the surplus receipts (if any) made over to the landowner.

82. (1) When an arrear of land-revenue has been due for a longer period than one month, and the Deputy Commissioner is of opinion that the foregoing processes are not sufficient for the recovery of the arrear, he may, in addition to or instead of all or any of those processes, report the matter to the Financial Commissioner, and the Financial Commissioner may thereupon order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

(2) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

- (a) while under attachment under the last foregoing section, or
- (b) while under the charge of the Court of Wards.

(3) When the assessment of any land has been annulled, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner:

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(4) After the expiration of that term the Deputy Commissioner shall assess the estate or holding at such sum as the Financial Commissioner approves for the remainder of the term of the current assessment of the district or tahsil, and shall announce the assessment in the manner prescribed in section 60.

(5) Notice of refusal to be liable for the assessment may be given in the manner mentioned in section 64 within thirty days from the date on which the assessment was announced.

(6) If notice is so given, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(7) When the assessment of a holding is annulled, the joint responsibility of the other landowners of the estate for the land-revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(8) The Financial Commissioner may direct that any contract made by the person who immediately before the annulment of the assessment of an estate or holding was in possession of the lands comprised therein, or any contract made by any person through whom that person claims, relating to those lands, shall not be binding on the Deputy Commissioner or his agent or farmer during the term of the management or farm.

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Act XIX,
1873, ss. 160,
81 and 162.] 83. (1) When any land is attached under section 81, or when the assessment of any land has been annulled under the last foregoing section, the Deputy Commissioner shall make proclamation thereof.

(2) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Deputy Commissioner or his agent or farmer shall be credited to the person making the payment, or relieve him from liability to make the payment again to the Deputy Commissioner or his agent or farmer.

(3) No payment made before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Deputy Commissioner, be credited to the person making the payment in account with the Deputy Commissioner or his agent or farmer.

Act XIX,
1873, s. 166.] 84. When an arrear of land-revenue has accrued and the Deputy Commissioner is of opinion that the foregoing processes are not sufficient for the recovery of the arrear, he may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained and with the previous sanction of the Financial Commissioner, sell the estate or holding in respect of which the arrear is due:

Provided that land shall not be sold—

- (a) for any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (a), (b), (c) or (d); or
- (b) for any arrear which has accrued while the land was under attachment under section 81 of this Act; or
- (c) for any arrear which has accrued while the land was held under direct management by the Deputy Commissioner, or in farm by any other person, under section 82, after either an annulment of assessment or a refusal to be liable therefor.

Act XIX,
1873, s. 167;
Act XVIII,
1881, s. 108.] 85. (1) Land sold under the last foregoing section shall be sold free of all incumbrances; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(2) Nothing in sub-section (1) shall affect—

- (a) the right of occupancy of a tenant having that right in the land; or
- (b) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship or burial-ground, so long as the land continues to be used for the purpose specified in the lease; or
- (c) any incumbrance specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

86. (1) If the arrear cannot be recovered by any of the processes hereinbefore provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Deputy Commissioner may, where the defaulter owns any other estate or holding, or any share in any other estate or holding, or any other immoveable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due:

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(2) When the Deputy Commissioner determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(3) The Deputy Commissioner may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(4) Any private alienation of the property, whether by sale, gift, mortgage or otherwise, made after the making of the proclamation and before the withdrawal thereof shall be void.

(5) In proceeding against property under this section, the Deputy Commissioner shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

87. Notwithstanding anything contained in section 75, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the time of payment and signed by him or his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

Procedure in Sales.

88. (1) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Deputy Commissioner shall issue a proclamation of the intended sale, stating—

- (a) the date, time and place of the sale;
- (b) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon;
- (c) whether the property is to be sold under section 84 or under section 86, and, when in the former case the property is to be sold subject to an incumbrance specially saved by order of the Financial Commissioner under section 85, what that incumbrance is; and
- (d) the amount for the recovery of which the sale is ordered.

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(2) The proclamation shall also state that any person claiming a right of pre-emption must, on penalty of forfeiting the right, give notice of his claim to the Deputy Commissioner before the commencement of the sale.

[Act XIV,
1882, s. 288.]

89. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

[Act XIV,
1882, s. 289.]

90. (1) A copy of the proclamation shall be served on the defaulter, and be fixed up in a conspicuous part of the office of the Tahsildar of the tahsil in which the property to be sold is situate.

(2) After a copy of the proclamation has been so fixed up in the office of the Tahsildar, a copy thereof shall be fixed up in the office of the Deputy Commissioner.

(3) The proclamation shall be further published in manner prescribed in section 25 and in such other manner as the Deputy Commissioner thinks expedient.

[Act XIV,
1882, s. 290.]

91. (1) The sale shall not take place on a Sunday or other holiday, or until after the expiration of at least thirty days from the date on which the copy of the proclamation was fixed up in the office of the Deputy Commissioner.

(2) The sale shall be by public auction at the office of the Deputy Commissioner, and shall be conducted either by the Deputy Commissioner in person or by a Revenue-officer specially appointed by him in this behalf.

(3) The Deputy Commissioner may from time to time postpone the sale.

[Act XIX,
1873, s. 173.]

92. If before the day fixed for the sale the defaulter pays, either at the place and in the manner prescribed under section 71 or to the officer in charge of the Government treasury of the district, the arrear in respect of which the land has been proclaimed for sale, the sale shall be stayed.

[Cl. Act XLV,
1860, s. 185.]

93. A defaulter shall be incapable of purchasing land at a sale under this Chapter.

[Act XIX,
1873, s. 185;
Act XVIII,
1881, s. 110.]

94. (1) At any time before the close of the day on which the sale is concluded any person who before the commencement of the sale has given notice of his claim to a right of pre-emption may claim to take the property at the sum last bid.

(2) If the right is not disputed, he shall be declared to be the purchaser.

(3) If the right is disputed, the Deputy Commissioner shall decide the dispute and declare the purchaser.

[Act XIV,
1882, s. 306.]

95. The person declared to be the purchaser shall pay immediately after the declaration a deposit of twenty-five per centum on the amount of the purchase-money to the officer conducting the sale, and, in default of that deposit, the property shall forthwith be put up again and sold.

96. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the sale took place, or, if the fifteenth day is a Sunday or other holiday, then on the first office-day after the fifteenth day.

97. In default of payment within the period mentioned in the last foregoing section, the deposit, after defrayment of the expenses of the sale, shall be forfeited to the Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

98. The deficiency of price (if any) which may happen on a re-sale consequent on a purchaser's default under this Chapter, and all expenses attending that re-sale, shall be recoverable from the defaulting purchaser as if the same were an arrear of land-revenue.

99. Every sale of immoveable property under this Chapter shall be reported by the Deputy Commissioner to the Commissioner.

100. (1) At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

(2) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

101. (1) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale; and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(2) An order made under this section shall be final.

102. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

103. A sale made after a postponement, and a re-sale consequent on a purchaser's default under section 97 or on the setting aside of a sale, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

104. (1) After a sale has been confirmed in manner aforesaid, the Deputy Commissioner shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

The Punjab Land-revenue Bill.
(Chapter VIII.—Village Waste-lands.—Sections 105-109.)

(2) The certificate shall state whether the property was sold under section 84 or under section 86, and, when in the former case it was sold subject to an incumbrance specially saved by order of the Financial Commissioner under section 85, what that incumbrance is.

(5) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance.

(4) Any suit brought, whether in a Civil or Revenue Court, against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

(5) The person named in the certificate as purchaser of any land shall be liable for all instalments of land-revenue falling due in respect of the land after the date of the confirmation of the sale.

105. (1) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears due from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue or of sums recoverable as arrears of land-revenue, and the surplus (if any) shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one landowner, then to the landowners either collectively or according to the amount of their recorded interests, as the Deputy Commissioner thinks fit.

(2) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

CHAPTER VII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

106. (1) When a village-officer, required by rules made under section 35 to collect land-revenue or other payments recorded under section 65, satisfies the Deputy Commissioner that those payments have not been made to him, the Deputy Commissioner may, subject to rules made by the Financial Commissioner in this behalf, recover them as if they were arrears of land-revenue.

(2) When the Deputy Commissioner enforces the payment of sums due to a village-officer under this section, he may refuse to consider any set-off claimed by the person against whom or whose property he issues process.

107. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely:—

(a) sums payable in respect of land assessed or assessable to land-revenue of the nature of quit-rent or commutation for service, and fees, fines, costs and other charges, including the village-officers' cess, payable under this Act;

(b) village-cesses, so far as they are applicable to conservancy, police or other objects declared by the Local Government to be for the benefit of an estate; [See section 48 of this Bill.]

(c) revenue due to the Government on account of pasturage or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other interests or rights described in section 45 or section 46 in cases in which the revenue so due has not been included in the assessment of an estate; [See section 70 of this Bill.]

(d) sums due to the Government from an agent appointed by the Deputy Commissioner to manage the land of a defaulter, or of a landowner who has refused to be liable for an assessment, or from the farmer of such land, or from the surety of the agent or farmer;

(e) fees leviable under section 33 of the Punjab District Boards Act, 1883; and XX of 1883.

(f) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation-works, not being sums recoverable as arrears of land-revenue under any enactment for the time being in force.

108. (1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Deputy Commissioner to sell the produce and to pay to him out of the proceeds of the sale thereof the amount or value of— [Act XII, 1881, s. 56; Act IX, 1883, s. 22.]

(a) any arrear of rent legally exigible by him in respect of the tenancy; and

(b) the rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

(2) If the Deputy Commissioner finds the whole or any part of the landlord's claim to be proper, he shall cause the produce, or such portion thereof as he thinks necessary, to be sold, and the proceeds of the sale to be applied in the first instance to satisfy the claim or the part thereof found to be proper, and shall give information of his proceedings to the Court which ordered the attachment.

(3) The finding of the Deputy Commissioner under this section shall be deemed to be a decree of a Revenue Court in a suit between the landlord and the tenant.

CHAPTER VIII.

VILLAGE WASTE-LANDS.

109. (1) When the majority of the land-owners desire, or the Local Government considers it expedient, that a part of the common waste-lands of an estate or holding should be managed for the production of timber, fuel or fodder, the Local Government may by proclamation propose to notify that any part of those waste-lands not exceeding one-fifth of the whole shall be so managed. [New. See Circular of the Government of India, Department of Revenue and Agriculture, No. 18A., dated the 1st March, 1883.]

The Punjab Land-revenue Bill.
(Chapter IX.—Surveys and Boundaries.—Sections 110-117.)

(2) The proclamation shall define the area to which the proposed notification is to apply, and state the purpose for which the area is to be managed, and shall call upon any person objecting to the proposed notification to show cause before the Deputy Commissioner, within three months from the date of the making of the proclamation, why the area should not be notified.

(3) Any objection made under sub-section (2) shall be recorded by the Deputy Commissioner, and be submitted to, and considered by, the Local Government.

(4) When three months from the date of the making of the proclamation have expired, and the Local Government has considered any objection which may have been submitted to it, the Local Government may notify the area and the purpose for which it is to be managed.

(5) The Local Government may withdraw any area from the operation of a notification under this section.

110. (1) While an area is notified, all rights existing therein shall be suspended, and the area shall be managed in accordance with rules to be made in this behalf by the Local Government.

(2) When any area is withdrawn from the operation of a notification, the rights suspended under sub-section (1) shall revive and the management under this Act shall cease.

(3) In making any rule under sub-section (1) the Local Government may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and when the breach is a continuing breach with a further fine which may extend to ten rupees for every day after the first during which the breach continues.

111.* (1) The persons who before the publication of the notification were entitled to the profits of the notified area may assess themselves by the vote of a majority of their body for the purposes of the management of the area.

(2) The assessment may be in labour or in cash or in both, and shall be subject to the approval of the Deputy Commissioner.

(3) When the assessment, or any part of the assessment, of any person consists of labour, the sum to be paid by him in cash in default of performance of the labour shall be determinable by the Deputy Commissioner as an alternative to the assessment or part.

(4) Any sum assessed or determinable under this section may be recovered by the Deputy Commissioner as an arrear of land-revenue.

(5) When an assessment is made under this section, the Deputy Commissioner may permit the notified area to be managed, under the superintendence of the prescribed Revenue-officer, by the persons paying the assessment, and the profits of the area shall be divisible among those persons in such manner as, subject to any rules under the last foregoing section, the Deputy Commissioner deems just.

112. When an assessment is not made under the last foregoing section, the following consequences shall ensue, namely:—

(a) the notified area shall be managed by the prescribed Revenue-officer;

(b) the cost of management shall be defrayed from the proceeds of the produce of the area; and

(c) only the balance, if any, of those proceeds shall be divisible in manner aforesaid among the persons who before the publication of the notification were entitled to the profits of the area.

113. While an area is notified, the provisions of Chapter XI of the Indian Forest Act, 1878, shall apply VII of Prevention of cattle-trespass. to any part of that area which is closed to grazing.

CHAPTER IX.

SURVEYS AND BOUNDARIES.

114. (1) The Financial Commissioner may, with the previous sanction of the Local Government, make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates.

(2) Rules under this section may prescribe, among other matters, the form of boundary-marks and survey-marks and the material to be used in their construction.

115. (1) The prescribed Revenue-officer may, for the purpose of framing any record or making any assessment under this Act, define the limits of any estate, holding or field, and, for the purpose of indicating those limits, require boundary-marks and survey-marks to be erected or repaired.

(2) In defining the limits of any land under sub-section (1), the Revenue-officer may lay down or restore any boundary or any boundary-mark or survey-mark already determined or set up by, or by order of, any Court, Revenue-officer or Forest-settlement-officer.

116. Subject to any rules made by the Financial Commissioner in this behalf with the previous sanction of the Local Government, boundary-marks and survey-marks shall be erected and kept in repair by and at the cost of the persons interested in the land for the indication of the limits of which they are required:

Provided that the Local Government may in any case direct that the cost of erection in the first instance shall be borne by the Government or be a charge on the proceeds of the village-officers' cess.

117. (1) If the persons interested in the land fail to erect or repair a boundary-mark or survey-mark within fifteen days from the date of their being required by the prescribed Revenue-officer to do so,

Recovery of cost incurred by the Government.

The Punjab Land-revenue Bill.
(Chapter X.—Supplemental Provisions.—Sections 118-125.)

the Revenue-officer may cause it to be erected or repaired.

(2) Where the Revenue-officer causes a boundary-mark or survey-mark to be erected or repaired, he shall, subject to any rules made under the last foregoing section, apportion the cost among those persons in such manner as he deems just, and certify the same to the Deputy Commissioner.

(3) The Deputy Commissioner may recover the cost as if it were an arrear of land-revenue.

XXVII, s. 25; XVIII, s. 18.] 118. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

XIX, s. 40.] 119. (1) When any land is being surveyed in pursuance of a direction of the Local Government or of rules under Chapter IV of this Act, any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

Act V, s. 30.] (2) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable, at the discretion of the prescribed Revenue-officer, to fine which may extend to ten rupees.

Act V, s. 97.] 120. (1) For the purposes of the survey of any land under Chapter IV of this Act, the landowners shall be bound to provide persons to act as flag-holders and chainmen.

(2) If the landowners fail to provide persons for that purpose or to provide them in sufficient number, such other persons as the Revenue-officer considers necessary may be employed and the cost of employing them recovered from the landowners as if it were an arrear of land-revenue.

121. (1) If it is necessary to make a survey by other agency than that of Professional surveys, Revenue-officers or village-officers, the Local Government may publish a notification stating—

- (a) the local area to be surveyed and the nature of the survey;
- (b) the names or official designations of the officers by whom the survey is to be made; and
- (c) the survey-marks to be erected by those officers.

(2) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 118.

XIX, s. 142.] 122. (1) If any person wilfully destroys, injures or removes without lawful authority a boundary-mark or survey-mark lawfully erected, or if a landowner negligently

suffers any such mark to be destroyed, injured or removed without lawful authority, that person or landowner may be ordered by the prescribed Revenue-officer to pay such fine, not exceeding fifty rupees for each mark so destroyed, injured or removed, as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

XLV of 1860.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

Rent and Revenue Deposits.

123. If a person liable to pay any sum to a headman or other landowner on account of rent, or of any liability to which that person is subject under this Act, tenders that sum to the headman or other landowner, and the sum is refused or a receipt therefor not forthwith granted, or if that person is doubtful as to the person entitled to receive the sum, he may apply to the prescribed Revenue-officer for leave to deposit the amount with the Government, and the Revenue-officer shall receive the deposit if, after such enquiry as he thinks fit, he is satisfied that the applicant has sufficient ground for making the application.

124. (1) If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly.

(2) If it purports to be made on any other account, the Revenue-officer shall issue a notice of the deposit to the person to whose credit the sum has been deposited.

(3) If within three years from the date of the service of the notice that person appears and claims the sum, the Revenue-officer, if satisfied as to his title to receive it, may pay it to him.

(4) If the Revenue-officer is not so satisfied, he may retain the deposit pending the decision of a Court of competent jurisdiction, and shall then pay the deposit in accordance with that decision.

(5) If the deposit is not so paid within three years, it shall be repaid to the depositor or disposed of as he may desire.

(6) When a deposit has been received it shall, in any question between the depositor and the person to whose credit the deposit was placed, be deemed, while it remains with the Government or after it has been paid under sub-section (3) or sub-section (4), to be a payment made by the depositor to that person.

125. No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything lawfully done by a Revenue-officer under the last foregoing section, but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

[Act XII, 1881, s. 55A.]

The Punjab Land-revenue Bill.
(Chapter X.—Supplemental Provisions.—Sections 126-132.)

Execution of Decrees by Revenue-officers.

126. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land shall be addressed to the Deputy Commissioner, or such Revenue-officer as the Deputy Commissioner may appoint in this behalf, and be executed by the Deputy Commissioner or that Revenue-officer in accordance with the provisions of the law applicable to the Court and with any rules consistent therewith made by the Local Government with the concurrence of the Chief Court.

127. (1) Orders issued by any Civil or Criminal Court for the attachment of the rents or for the attachment or sale of the produce of any land shall be addressed to the Deputy Commissioner or such Revenue-officer as the Deputy Commissioner may appoint in this behalf, and shall be executed under the Deputy Commissioner's direction and control.

(2) Subject to the other provisions of this Act the attachment of the produce of any land shall not prevent any person from reaping, gathering or storing the produce, or doing any other act necessary for its preservation.

(3) The Financial Commissioner may, with the previous sanction of the Local Government, make rules to regulate the procedure of Revenue-officers in attaching the rents or attaching and selling the produce of land.

Division of Produce.

128. In either of the following cases, namely:—

(a) where two or more landowners, or two or more tenants, are jointly interested in any produce, and either or any of the landowners or of the tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing the produce, or

(b) where it is necessary to divide any produce for the purposes of this Act,

the rules contained in sections 20 to 22 (both inclusive) of the Punjab Tenancy Act, 1886, shall apply so far as they can be made applicable.

Power to make Rules.

129. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Financial-Commissioner, with the previous sanction of the Local Government, may make rules, consistent with this Act and any other enactment for the time being in force,—

(a) fixing the number and amount of the instalments of rent and rates and of cesses and other sums of which a record has been made under this Act, and the dates for the payment of those instalments;

(b) fixing the dates on which profits shall be divisible by headmen or other persons by whom they are realised on behalf of co-sharers;

(c) regulating the procedure in cases where persons are entitled to inspect records of Revenue-offices or Revenue Courts, or

records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(d) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made or compiled in Revenue-offices or Revenue Courts or submitted to any authority;

(e) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English;

(f) providing for the inspection of those offices and Courts and the supervision of the working thereof;

(g) regulating all such matters as he thinks fit, with a view to promoting the efficiency of the establishments of those offices and Courts, and maintaining proper discipline among the ministerial officers of those establishments; and

(h) generally for carrying out the purposes of this Act.

(2) Rules under clauses (a), (b) and (h) may be of general or special application, and may be expressed to supersede anything contained in any record-of-rights.

(3) Until rules are made under clauses (a) and (b) the sums therein referred to shall be payable in the instalments and at the times in and at which they are now payable.

(4) Rules made under clause (g) may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary which may be or become due to the officers fined.

130. All powers to make rules under this Act shall be exercised subject to the control of the Governor General in Council.

131. (1) The Local Government and the Financial Commissioner shall, before making any rules.

under this Act, publish, in such manner as may in its or his opinion be sufficient for giving information to persons interested, a draft of the proposed rules, with notice of the date at or after which the draft will be taken into consideration, and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before that date.

(2) Every rule made by the Local Government or the Financial Commissioner shall be published in the local official Gazette, and that publication shall be conclusive proof that the rule has been made as required by this section.

Jurisdiction with respect to Revenue matters and Fluvial Lands.

132. (1) Except as otherwise provided by this Act, a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-
[Act 1871, s. 65; Act 1873, s. 21; XVII, s. 152.]

[Cf. C. P. T. Act, s. 20.]

The Punjab Land-revenue Bill.
(Chapter X.—Supplemental Provisions.—Sections 133-135.)

officer or Revenue Court is empowered by this Act or by the Punjab Tenancy Act, 1886, to dispose of or to hear and determine, or take cognizance of the manner in which the Local Government or any Revenue-officer or Revenue Court exercises any powers vested in it or him by or under those Acts; and in particular—

(2) A Civil Court shall not exercise jurisdiction with respect to—

- (a) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;
- (b) any claim to the office of kánungo, zaildār or village-officer, or in respect of any injury caused by exclusion from the office, or to compel the performance of the duties thereof;
- (c) any notification directing the making or revision of a record-of-rights;
- (d) the framing of a record-of-rights, or the preparation, signing or attestation of any of the documents included therein;
- (e) the correction of any entry in a record-of-rights;
- (f) any claim for partition of an estate, holding or tenancy, or any dispute connected with, or arising out of, proceedings for partition, not being a dispute as to the extent of the shares belonging to the parties to the proceedings;
- (g) any question as to the distribution of land at the partition of an estate or holding, or as to the distribution of land subject by established custom to periodical re-distribution;
- (h) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor General in Council;
- (i) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;
- (j) the amount of land-revenue to be assessed on any estate or holding under this Act;
- (k) the amount of any other revenue to be assessed under this Act, or of any cess or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;
- (l) the amount of, or the liability of any person to pay, any fees, fines, costs or other charges imposed under this Act;
- (m) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act;
- (n) the liability of any person to pay a sum appearing from the record prepared under section 65 to be payable by him;
- (o) the formation of an estate out of excess waste-land, or the declaration of an es-

tate so formed to be at the disposal of the Government;

- (p) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;
- (q) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery, of land-revenue or any sum recoverable as an arrear of land-revenue;
- (r) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue; or
- (s) any claim connected with, or arising out of, proceedings for the management of any area for the production of timber, fuel or fodder.

133. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two Civil or Revenue Courts or of two Revenue-officers any land subject to fluvial action is situate, either of those Courts or officers may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and entertain and dispose of any suit or proceeding relating to that land, with respect to which the Court or officer is competent as regards the nature of the suit or proceeding, and the value of its subject-matter, to exercise jurisdiction.

(2) When the Court or officer has recorded a statement to the effect mentioned in sub-section (1), an objection that the suit or proceeding was instituted or had before a Court or officer not having jurisdiction in the place where the land is situate shall not be allowed by any appellate or revisional Court or officer.

(3) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court or officer that a decree or order in a suit or proceeding relating to such land as aforesaid was made by a Court or officer not having jurisdiction in the place where the land is situate, the appellate or revisional Court or officer shall not allow the objection if in its or his opinion there was, at the time of the institution of the suit or proceeding, any reasonable ground for uncertainty as to the Court or officer having jurisdiction with respect thereto.

Miscellaneous.

134. (1) Any record or paper which a village-officer is required by law or s. 76. [Act I, 1872.] Papers kept by village-officers to be deemed by any rule under this Act to be public documents. prepare or keep shall be deemed to be the property of the Government.

(2) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect.

135. All persons whose rights, interests or liabilities are required by this Act to be entered in a record-of-rights or other record prepared under this Act shall be

The Punjab Land-revenue Bill.
(The Schedule.—Enactments repealed.)

bound to furnish on the requisition of the Revenue-officers or village-officers engaged in preparing the record all information necessary for the correct preparation thereof.

136. If a person required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time within the limits of the estate in which he ordinarily resides fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to fifty rupees.

137. When service is paid for by a percentage deducted from the land-revenue, assignments of land-revenue shall, unless the Local Government in any case otherwise determines, be reduced by the same percentage.

[Act XII,
1881, s. 29.]

138. (1) Where a lease has been granted, or an agreement has been entered into, by a landowner, fixing for a period exceeding the term of the assessment the rent of any land assessed to land-revenue, and that term has expired, the lease or agreement shall be voidable—

(a) at the option of the landlord if the land-revenue of the land has been enhanced and the tenant refuses to pay such rent as the prescribed Revenue-officer, on the application of the landlord, determines to be fair and reasonable; and

(b) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent as the prescribed Revenue-officer, on the application of the tenant, determines to be fair and reasonable.

[Cf. Act XXXIII, 1871, s. 38.] (2) Any contract or agreement relative to the occupation, rent or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the contract or agreement, or unless the contract or agreement is otherwise terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

[Act XVIII, 1881, s. 155.] **139.** (1) A Revenue-officer, or a person employed in a Revenue-office, shall not, except with the express permission of the Local Government,—

[Act XLV, 1860, s. 168.] (a) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the acquisition, except for public purposes, of any land or interest in land by purchase, mortgage or otherwise, in the district to which he is appointed or in which he is employed; or

(b) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which may be sold by order of any Revenue-officer or Revenue Court in that district.

(2) The Local Government may delegate to Commissioners or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class or grade of Revenue-officers.

(3) Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, or other law.

140. All powers conferred by this Act on the Local Government or on the Financial Commissioner may be exercised from time to time as occasion requires.

THE SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

Number and year.	Title or subject of Act.	Extent of repeal.
1	2	3
Act VI of 1867	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his government.	The whole.
Act XXXIII of 1871.	The Punjab Land-revenue Act, 1871.	The whole.
Act IV of 1872	The Punjab Laws Act, 1872.	Section 21.
Act XIV of 1875.	The Punjab Judicial Administration Act, 1875.	So much as has not been repealed.
Act XVIII of 1884.	The Punjab Courts Act, 1884.	Section 3 (1), (2), (4), (5), (6) and (7); the whole of Chapter V; the last seventeen words of sub-section (1) of section 67; and section 75.

STATEMENT OF OBJECTS AND REASONS.

THE law relating to the assessment and collection of the land-revenue and other connected subjects is contained in Act XXXIII of 1871. This Act was the first attempt to express in clear and concise language the various rules and orders—based on the “spirit” of the Bengal Regulations—by which the proceedings of Revenue and Settlement officials in the Punjab had,

up to that time, been regulated, and which had acquired the force of law under section 25 of the Indian Councils Act, 1861.

The Act under consideration was framed with great care by Sir James Stephen in consultation with the Financial Commissioner, Mr. (afterwards Sir. R.) Egerton, and the then Lieutenant-Governor, Sir R. H. Davies, both officers of large revenue and settlement experience. But subsequent experience has shown that it is incomplete in some respects and requires amendment in others. Some of the defects in it have recently formed the subject of correspondence with the Government of India, and others have been supplied in the enactments on the same subject which have since been framed for other parts of India. Moreover, the recent orders of the Government of India, based on recommendations of the Famine Commissioners, require that the continuous operations by which village-records are maintained correct to date shall be disconnected from those other occasional proceedings by which the assessment of the land-revenue is revised. And in the endeavour to recast the body of rules which have been issued under the authority of the existing law, with a view to the carrying out of those orders, technical difficulties have arisen which render the amendment of the Act a matter of necessity. The Punjab Tenancy Act, 1868, being under revision at the same time, the Bill has been so framed as to cover the entire jurisdiction of Revenue-officers, whether of a judicial, fiscal or executive character.

CHAPTER I.—PRELIMINARY.

This Chapter contains the necessary definitions—some of which are new and others have been incorporated from the Land-revenue Acts recently passed for other provinces—and a few other preliminary provisions.

CHAPTER II.—REVENUE-OFFICERS AND REVENUE COURTS.

The classification of Revenue-officers and Revenue Courts, the powers taken for the appointment of the former, and the provisions for the superintendence and control of both, differ little from the corresponding provisions of the existing law, which are scattered over three enactments—the Land-revenue Act, 1871, the Judicial Administration Act, 1875, and the Courts Act, 1884.

Section 9 gives a detail of the applications and proceedings which can be disposed of by Revenue-officers as such, and section 10 of those cases which they will deal with in their judicial capacity as Revenue Courts. The classes of cases of which particulars are given in this latter section are, with some not very important variations suggested by the experience of the last two years, taken from section 45 of the Courts Act, 1884; but the list has been supplemented by including in it suits under several new sections of the Bill now before the legislature for the amendment of the Punjab Tenancy Act, 1868. In the Courts Act these suits have been divided into two groups, the first or more important group being reserved exclusively for trial by Deputy Commissioners. But as no such distinction existed before the passing of that Act, and as it has been found to be productive of serious inconvenience, it has been omitted from this Bill. The Local Government will by rule or notification under section 13 determine by what officers or classes of officers these cases will be heard, and the rule adopted will ordinarily, as in former years, be based mainly on the value of the suits.

Experience since the passing of the Courts Act having shown that the subordinate Civil and Revenue Courts do not always succeed in avoiding mistakes as to the respective limits of their jurisdictions, provision has been made in section 11 for obviating by a reference to the Chief Court the inconvenience and expense to the parties of setting aside the proceedings in cases where a Court has acted without jurisdiction, when neither party has been prejudiced by the mistake.

The other provisions of this Chapter which call for special notice are those relating to appeal and revision. The change in jurisdiction to try original revenue suits noted above has necessitated an alteration in the course of appeal, and in place of the somewhat complicated system of appeal laid down in sections 47 and 48 of the Courts Act, the more simple system provided in sections 19 and 20 of the Bill has been devised. Where the order in appeal confirms the original decision, there will be no further appeal; in other cases there will be a further appeal to the Financial Commissioner. By section 22 power has been given to the Financial Commissioner to call for and revise the proceedings of both Revenue-officers and Revenue Courts; as regards the former class of proceedings, this merely continues an authority which he already possesses under section 65 of the Land-revenue Act of 1871. The remaining sections of this Chapter relate to procedure, and for the most part reproduce provisions on the subjects in the Courts Act; where additions have been made, they have been taken from the revenue laws of other provinces.

CHAPTER III.—KÁNÚNGOS, ZAILDÁRS AND VILLAGE-OFFICERS.

The provisions of the existing law respecting these officers are contained in one short section. Those of the Bill are in greater detail, and provide expressly for the levy of a cess for the payment of village-officers, for the administration of the cess so levied, and for the control of these officers. Section 36, which authorizes the levy of this cess, also cures a defect

in the present law by enabling the cess to be charged on the owner's and water-advantage rates.

CHAPTER IV.—RECORDS.

In framing this and the following chapter, the language of the existing law, which describes the framing of a record-of-rights and the assessment of the land-revenue by the term "settlement," has been departed from. These two chapters speak (i) of the preparation and maintenance of certain records for each village, and (ii) of the assessment of land-revenue on the basis furnished by those records. The powers necessary for these purposes are taken in the name of the ordinary Revenue-officers; and it is left open to Government to decide from time to time, as occasion arises, how much of these operations can be carried out by the ordinary district staff, and for what operations special and additional officers should be appointed under the authority provided in section 14.

A record-of-rights has now been provided for every district in the Province. Additions to these records are required from time to time as new estates come into existence. And their occasional revision is necessary, usually in connection with re-assessment operations. Under section 41 of the Bill it will be in the discretion of the Local Government to direct the undertaking of record-operations as occasion arises.

The tendency of recent experience is towards a much greater simplification of these records than any that was aimed at when the Act of 1871 was enacted, and therefore the definition of the contents of the record in section 39 of the Bill is briefer and less elaborate than that set out in section 14 of the existing Act. The existing limitations on the alteration of entries are continued by section 43. Section 44 provides for the prompt confirmation of the record. At present this confirmation is often delayed for a long time, because the operations of record and assessment cannot be dealt with separately.

The presumptions in favour of the title of the Government to waste-lands, forests, mines and minerals, which are asserted by the present law, are continued in sections 45 and 46, and words have been added to the latter section which assert the right of the Government to fisheries in navigable rivers, a right which the State has always possessed.

The provisions relating to village-cesses in section 48 give legal sanction to an authority which the Local Government often exercised in connection with the earlier settlements in the Punjab, which is still occasionally needed, and which is provided in the Land-revenue Acts of other Provinces of Upper India.

The rest of the Chapter relates to partition-proceedings, the record of mutations, and the preparation of the annual papers, and in these respects re-produces for the most part the provisions of the existing law and of the rules made under its authority. The only change of importance is the proposal to discontinue the system prescribed by section 21 of the Punjab Laws Act, 1872, by which all Courts are required to send to the Deputy Commissioner copies of decrees affecting rights in land or the possession thereof. No inconvenience has, it is understood, been experienced in the North-Western Provinces during the last twelve years in consequence of the removal of a provision of this kind from the law applicable to those provinces; and it is believed that, as there the reports of changes of possession which are required to be made by sections 97 and 99 of Act XIX of 1873 have produced the desired effect, so here the somewhat similar provision in section 52 of the Bill will prove equally effective.

CHAPTER V.—ASSESSMENT.

This Chapter is so drafted that while continuing all the provisions of the existing law, it supplies some important omissions in that law and expresses with clearness the procedure which has grown up under it. The opening sections of the Chapter expressly declare that the land-revenue is the first charge on the land, its rents and its produce, and they further provide security against the alienation of the rents and produce until this charge has been satisfied. The absence of any clear provision of this nature has been the cause of some inconvenience during past years. It has not uncommonly happened that a decree-holder has succeeded in attaching rents or produce due to a landowner before the latter has paid his revenue, leaving the Revenue-officers no remedy except that of proceeding against the produce of the next harvest, or against the land itself.

By the procedure laid down in sections 60 to 63 the formality of demanding from the landowners of every estate or their representatives a written engagement accepting the new assessment is dispensed with. But the landowners will still be at liberty to refuse to be liable for the assessment fixed by the Deputy Commissioner, and the consequences of refusal will be the same as those which follow from refusal to accept an assessment under the present law. Refusals of this kind, however, occur so seldom in the Punjab that the really important point in the procedure connected with the giving of effect to revised assessments lies less in the provisions dealing with these refusals than in those contained in sections 61 and 62 of the Bill, which provide for the hearing of objections and appeals, and for the modification of assessments prior to confirmation. In a country of small holdings cultivated by the owners themselves—and this is the prevailing character of Punjab tenures—an owner is very rarely in a position to decline to pay the new assessment; if he thinks that it is too heavy, the only

remedy practically open to him is to appeal against it, and this is the remedy which he has almost invariably adopted.

Section 67 gives a power of converting the dues of a superior landowner, when leviable in kind or cash of varying quantity or amount, into a fixed percentage on the land-revenue. This authority existed prior to the enactment of the present law, and, in a case of some importance which recently came under consideration and was adjusted by compromise in the manner provided for in this section, the absence of this authority caused serious embarrassment both to the Revenue-officers and to those who were liable for the revenue.

CHAPTER VI.—COLLECTION OF LAND-REVENUE.

No very material change has been made in this Chapter in the law relating to the recovery of arrears, but in drafting the sections which deal with this subject an attempt has been made to set forth the several processes which can be resorted to for this purpose and their results in as simple a form as possible. The following are the principal alterations made:—(a) the period during which a defaulter may be imprisoned has been reduced by section 78 from one year to one month; (b) the exemptions from attachment and sale specified in section 266 of the Code of Civil Procedure have been extended by section 79 in the case of revenue defaulters to seed-grain, and to so much of the produce of a defaulter's land as is necessary for the support of himself and his family and the maintenance of his cattle until the harvest next following the execution of the process; (c) in order to render the Chapter complete in itself, the procedure for the sale of a defaulter's land, instead of being dealt with, as in the present Act, by reference to the sections of the Code of Civil Procedure relating to the sale of immovable property, has been set out in full by the incorporation of those sections, with some necessary modifications, in the Bill.

CHAPTER VII.—RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

This Chapter contains provisions for the recovery as arrears of land-revenue of sums due to headmen and other village-officers, and of a number of items of miscellaneous revenue. Almost all that is new in this Chapter is taken from the Revenue and Rent Acts of other provinces.

CHAPTER VIII.—VILLAGE WASTE-LANDS.

The provisions of this Chapter are altogether new, but their general policy is believed to be entirely in accordance with the views of the Government of India. They have been framed with the object of securing in suitable estates the management of a portion of the waste-land for the production of timber, fuel and fodder. The area to be so treated is not to exceed one-fifth of the waste, and power is taken by section 110 to make rules for its management on the part of the landowners. Both the order directing that certain areas shall be reserved for these purposes and the rules for their management will be issued by the Local Government, and provision is made that, before the issue of any such order, objections shall be invited and considered.

CHAPTER IX.—SURVEYS AND BOUNDARIES.

This Chapter contains the usual provisions for facilitating the survey of land for revenue purposes. Similar provisions are to be found in all the Land-revenue Acts of other provinces of Upper India, and these do not therefore seem to call for special notice. Some of the remedies for failure on the part of the landowners to erect and maintain boundary-marks, and the penalties for wilfully destroying, injuring or removing such marks after they have been set up, are of a summary nature, the object being to avoid the necessity for the institution of criminal proceedings except where really required by the gravity of the case.

CHAPTER X.—SUPPLEMENTAL PROVISIONS.

This Chapter deals with matters for which provision could not conveniently be made in other parts of the Bill. Of these the following are the most important. The first is that contained in sections 126 and 127. So long as civil, criminal and revenue jurisdiction was vested in the same officers, the subordinate revenue establishments, from the Tahsildars downwards, were at the disposal of the Courts for the execution of processes relating to land and its produce. But civil and revenue jurisdiction now vests, for the most part, in separate officers; and consequently the officers presiding over Civil Courts have no longer at their command any organized agency by which those processes can be executed. The object of these sections is to supply this deficiency by continuing the practice which existed before the passing of the Courts Act of 1884. By them the orders of Civil Courts relating to land and the rents and produce thereof will, as before, be executed by the Revenue-officers and their establishments, and the necessity for creating a separate agency for this purpose will be avoided.

By another section (128) the same power is given to a Revenue-officer, in cases of dispute, of dividing produce between co-sharers, as that which has always been possessed by him for the division of produce between landlord and tenant.

Section 129 confers the powers to make rules which are necessary for the proper working of the Act, and section 132 defines the matters in regard to which the jurisdiction of the Civil Courts will be barred. No material change has been made in respect of either of these subjects.

In section 133 provision has been made to meet the uncertainties attaching to jurisdiction in cases relating to alluvial lands on the larger rivers where they form the boundary between districts.

Lastly, section 134 declares that all records and papers which a village-officer is required by law to prepare and keep shall be the property of Government, and makes suitable provision for their production and proof. The object of this section is to render unnecessary the inconvenient practice of summoning patwáris merely for the purpose of proving the authenticity of papers prepared or kept by them.

The 12th July, 1886.

W. G. DAVIES.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 14, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th July, 1886, and was referred to a Select Committee on the 11th August, 1886 :—

NO. 15 OF 1886. .

A Bill to declare the law in force in Upper Burma.

WHEREAS the territories which were formerly governed by King Thebaw have become part of British India;

And whereas it is expedient to declare the law in force in those territories, and for this purpose to distinguish between those territories and the territories which were under the administration of the Chief Commissioner of British Burma on the thirty-first day of December, 1885;

It is hereby enacted as follows :—

1. This Act may be called the Upper Burma Laws Act, 1886; and it shall come into force at once.

Short title and commencement.

Constitution of Province of Burma.

2. (1) The following territories shall constitute a province to be known as Burma, namely :—

(a) the territories formerly governed by King Thebaw, which shall be known as "Upper Burma"; and

(b) the territories administered by the Chief Commissioner of British Burma on the thirty-first day of December, 1885, which shall be known as "Lower Burma."

(2) The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the official Gazette, transfer any portion of Upper Burma to Lower Burma, or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and on and from that date the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(3) When any portion of Upper Burma is transferred to Lower Burma, the Scheduled Districts Act, 1874, shall, unless the Governor-General in Council otherwise directs, continue to be in force therein.

(4) When any portion of Lower Burma is transferred to Upper Burma, the Governor-General in Council may direct that that Act shall apply thereto.

3. Where in any enactment in force at the passing of this Act the expression "British Burma" occurs, it shall be construed as referring to Lower Burma.

4. The enactments specified in the first schedule to this Act, having been rendered unnecessary by the incorporation of Upper Burma in British India, are repealed to the extent mentioned in the third column of the schedule.

5. (1) So much of each of the enactments specified in the second schedule to this Act as is at the passing of this Act in force in any part of Lower Burma which is not included in a scheduled district as defined in the Scheduled Districts Act, 1874, shall be deemed to be in force in Upper Burma generally, or in the district of Mandalay only, according as the enactment is specified in the First or Second Part of the schedule.

(2) An enactment not specified in that schedule shall not be deemed to be or to have been in force in Upper Burma or in any part of Upper Burma unless it is expressed, by special mention of Upper Burma or a part of Upper Burma, to extend thereto, or after the passing of this Act is extended thereto in exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, or by any other enactment for the time being in force.

(3) The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, declare that any enactment which is specified in that schedule or which may hereafter be extended in exercise of any such powers as aforesaid, shall no longer be in force in Upper Burma.

6. The following enactments specified in the second schedule to this Act shall, in Upper Burma, be read subject to the following modifications, namely:—

(a) in Act VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*), for the last sixteen words of section 4, the words "or of any person or property exempted by order of the Local Government from payment of tolls" shall be substituted;

(b) in Act V of 1861 (*an Act for the Regulation of Police*), to section 2 the words "All Myothugyis and Thugyis for the time being holding office shall be police-officers, and shall be deemed to have been formally enrolled under this Act" shall be added; and

(c) in Act VI of 1864 (*an Act to authorise the punishment of whipping in certain cases*), after section 5 the sections and schedule in the third schedule to this Act shall be added.

[See Zanzibar Order in Council, Part III, Art. 8, cl. (d) (i).] 7. For the purpose of facilitating the application of any enactment for the time being in force in Upper Burma, any Court in Upper Burma may construe the enactment with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court.

[cf. Act XXXIV of 1860, s. 2, & Act XX of 1876, s. 3.] 8. All acts of executive authority, proceedings, decrees and sentences, which have been done, taken or passed in Upper Burma since the seventeenth day of November, 1885, and before the passing of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Local Government, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

9. All rules, orders or instructions made or issued after the seventeenth day of November, 1885, and before the passing of this Act.

this Act for the guidance of officers engaged in the administration of Upper Burma shall be deemed to have had the force of law, and shall, so far as they are consistent with this Act, continue to have the force of law until they are withdrawn, or are superseded by any Act of the Governor-General in Council, or by any Regulation under the Statute 33 Victoria, chapter 3, or by any enactment extended to Upper Burma, or by any rules, orders or instructions made or issued under any such Act, Regulation or enactment.

THE FIRST SCHEDULE.

(See section 4.)

ENACTMENTS REPEALED.

Number and year.	Subject.	Extent of repeal.
1	2	3
Act XXX of 1854.	An Act to provide for the levy of Duties of Customs in the Arakan, Pegu, Martaban and Tenasserim Provinces.	So much as has not been repealed.
Act IV of 1863.	An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burma.	So much as has not been repealed.
Act XII of 1864.	An Act to give further effect to the provisions of Act IV of 1863.	So much as has not been repealed.
Act XXIII of 1872.	An Act for regulating the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava.	The whole.

THE SECOND SCHEDULE.

(See section 5.)

FIRST PART.

Enactments declared in force in Upper Burma generally.

BENGAL REGULATIONS.

Number and year.	Subject.
XI of 1812	Removal of Foreign Emigrants.
III of 1818	State Prisoners.

THE SECOND SCHEDULE—*contd.*FIRST PART—*contd.*

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Subject.
V of 1843 ...	Slavery.
XVIII of 1850 ...	Protection of Judicial Officers.
XIX of 1850 (except s. 24).	Apprentices.
XXXIV of 1850 ...	State Prisoners.
XXXVII of 1850 ...	Inquiries into behaviour of Public Servants.
VIII of 1851 ...	Tolls on Roads and Bridges.
XXX of 1852 ...	Naturalization of Aliens.
II of 1853 ...	Burdens on Land.
XII of 1855 ...	Executors and Administrators.
XIII of 1855 ...	Compensation for death caused by actionable wrong.
XI of 1857 ...	State Offences.
III of 1858 (s. 5) ...	State Prisoners.
XXXV of 1858 ...	Lunatics.
XXXVI of 1858 ...	Lunatic Asylums.
IX of 1859 (except s. 18, last para.)	Forfeited Property.
XV of 1859 ...	Inventions.
IX of 1860 ...	Disputes between Workmen and Employers.
XXVII of 1860 (except s. 6 and s. 24, last clause).	Collection of Debts on Successions.
XLV of 1860 ...	Penal Code.
V of 1861 ...	Police.
III of 1864 ...	Foreigners.
VI of 1864 (except s. 6).	Whipping.
III of 1865 ...	Carriers.
X of 1865 ...	Succession.
XIV of 1866 ...	Post Office.
III of 1867 ...	Public Gambling.
XXV of 1867 ...	Printing-Presses and Newspapers.
XXXII of 1867 ...	Chief Commissioners' Powers.
I of 1868 ...	General Clauses.
IV of 1869 ...	Divorce.
V of 1869 ...	Indian Articles of War.
XV of 1869 ...	Prisoners' Testimony.
XX of 1869 ...	Volunteers.
XXIII of 1870 ...	Coinage.
XXVI of 1870 ...	Prisons.
XXVII of 1870 ...	Penal Code Amendment.
I of 1871 ...	Cattle-trespass.
V of 1871 ...	Prisoners.
XXIII of 1871 ...	Pensions.
I of 1872 ...	Evidence.
XIII of 1872 ...	Patterns and Designs.
XV of 1872 ...	Christian Marriage.
XVIII of 1872 ...	Evidence Act Amendment.
XIX of 1872 ...	Penal Code Amendment.
II of 1873 ...	Burma Ferries.
X of 1873 ...	Oaths.
XIV of 1873 ...	Lunatic Soldiers.
IV of 1874 ...	Foreign Recruiting.
IX of 1874 ...	European Vagrancy.
XIV of 1874 ...	Scheduled Districts.
V of 1875 ...	Native Soldiers.
IX of 1875 ...	Majority.

THE SECOND SCHEDULE—*concl'd.*FIRST PART—*concl'd.*ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—*concl'd.*

Number and year.	Subject.
XIII of 1875 ...	Probates.
XIX of 1876 (except s. 12).	Dramatic Performances.
II of 1877 ...	Probates.
XI of 1877 ...	Military Lunatics.
XV of 1877 ...	Limitation.
VI of 1878 ...	Treasure Trove.
XI of 1878 (except ss. 9 and 30).	Arms.
III of 1879 (ss. 2, 4 and 8).	Destruction of Records.
IV of 1879 ...	Railways.
XXI of 1879 ...	Extradition.
III of 1880 ...	Cantonments.
III of 1882 (s. 3) ...	Seditious Publications.
VIII of 1882 ...	Penal Code Amendment.
IX of 1882 ...	Prisoners Act Amendment.
XX of 1882 ...	Paper Currency.
IV of 1883 ...	Railways.
XVI of 1884 ...	Burma Gaming.
XIII of 1885 ...	Telegraphs.
X of 1886 (ss. 21-25, both inclusive).	Penal Code and Prisoners' Act Amendment.
XIII of 1886 ...	Securities.

SECOND PART.

Enactments declared in force in the Mandalay District only.

Number and year.	Subject.
IX of 1872 ...	Contracts.
I of 1877 ...	Specific Relief.
V of 1881 ...	Probate and Administration.
XXVI of 1881 ...	Negotiable Instruments.
II of 1885 ...	Negotiable Instruments Act Amendment.
IV of 1886 ...	Contract Act Amendment.

THE THIRD SCHEDULE.

(See section 6, cl. (c).)

ADDITION TO THE WHIPPING ACT.

"6. (1) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the schedule to this Act, or of any offence which the Local Government, with the previous sanction of the Governor-General in Council, may add to that schedule, may be punished with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

"(2) The Local Government may at any time suspend the operation of this section in whole or in part in any district or part of a district, and, with the previous sanction of the Governor-General in Council, remove the suspension of its operation.

THE THIRD SCHEDULE—*contd.*

"7. Sections 390 to 395 (both inclusive) of the Code of Criminal Procedure, 1882, shall be read as part of this Act."

"THE SCHEDULE.

(See section 6 sub-section (1).)

Section of Indian Penal Code.	Offence.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.
121A	Conspiring to commit certain offences against the State.
122	Collecting arms, &c., with the intention of waging war against the Queen.
124A	Exciting, or attempting to excite, disaffection.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.

THE THIRD SCHEDULE—*concl'd.*

Section of Indian Penal Code.	Offence.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire, or explosive substance, with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire, or explosive substance, with intent to destroy a house, &c.
440	Mischief committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or housebreaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in housebreaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c. Abetment of any of the foregoing offences. Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to declare the law in force in the territories of Upper Burma, which were annexed to British India on the 26th of February, 1886.

2. It is proposed to unite those territories in one province with the territories at present known as British Burma, but, as it is not desirable to introduce immediately into the new territories all the law at present in force in British Burma, it is necessary to distinguish between those territories and British Burma. This the Bill accordingly does (section 2) by dividing the province of Burma into two parts—Upper Burma, the lately annexed territories, and Lower Burma, corresponding to the present British Burma. As, however, in consequence of the present boundary having been aligned without regard to the limits of ancient divisions, it may be convenient to transfer some small portions of Upper Burma to Lower Burma, and of Lower Burma to Upper Burma, the Bill confers special power on the Local Government to do this, subject to the sanction of the Governor-General in Council. In order further to prevent any question being raised as to the local application of Acts at present applying to "British Burma," the Bill (section 3) declares that in enactments now in force that expression is to be construed as referring to Lower Burma.

3. Section 4 repeals some Acts which the incorporation of Upper Burma in British India renders it unnecessary to retain on the Statute-book.

4. Section 5 declares the enactments which are to come into force in Upper Burma. These enactments are enumerated in a schedule which has been prepared by the local authorities. This schedule is based primarily on the schedule to the Arakan Hill District Laws Regulation, 1874, but contains some additional laws which appear to be required by the circumstances of Upper Burma. There is also added a second part to the schedule, specifying a few enactments which are to come into force in the Mandalay district only, where a somewhat more elaborate Code of Laws is required than elsewhere. After declaring these enactments to be in force, the section bars the application of all other enactments, but saves any power of extending enactments which may be conferred by section 5 of the Scheduled Districts Act, 1874, or by any other enactment for the time being in force. Lastly, the section confers on the Local Government a power of withdrawing any enactment which is contained in the schedule or which may hereafter be extended.

5. Section 6 makes certain modifications in Acts VIII of 1851, V of 1861, and VI of 1864, which are considered necessary to adapt them to the peculiar circumstances of Upper Burma, while section 7 permits Courts in Upper Burma, when applying any enactment for the time being in force, to construe it with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court. This provision, which is taken from the Zanzibar Order in Council of 1884, will, it is hoped, in conjunction with the powers conferred on the Local Government by section 6, clause (c), of the Scheduled Districts Act, 1874, be sufficient to remove any technical difficulties which might possibly be raised as to the working of any enactment in force in Upper Burma.

6. Section 8 provides an indemnity which seems necessary in order to cover possible cases that might arise with respect to the action of British officers during the reign of martial law or during the absence of all law in Upper Burma.

7. Finally, section 9, following section 25 of the Indian Councils Act, 1861, validates the Instructions to Civil Officers and other directions issued since the occupation of Upper Burma.

The 14th July, 1886.

C. P. ILBERT.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th August, 1886 :—

NO. 16 OF 1886.

A Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto ; It is hereby enacted as follows :—

1. (1) This Act may be called the Suits Valuation Act, 1886 ; and

Short title, local extent and commencement.

(2) It shall extend to such local areas, and come into force therein on such dates, as the Governor-General in Council, by notification in the Gazette of India, from time to time directs.

2. (1) The Local Government may from time to time, with the previous

Power for Local Government to make rules to determine value of land for purposes of jurisdiction.

sanction of the Governor-General in Council, make rules for determining the value of land for purposes of

jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of the local area in which this Act is in force in the territories under the administration of the Local Government, and the value so determined may vary from place to place within the local area or part thereof to which the rules apply.

3. Where a suit mentioned in paragraph iv of

Value of relief sought in certain suits not to exceed value of the land to which those suits relate.

section 7, or in article 17 of Schedule II, of the Court-fees Act, 1870, relates to land or an interest in land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or

interest to which the suit relates as determined by the rules made under the last foregoing section.

4. Where in suits other than those referred to in sections 2 and 3 court-fees are payable *ad valorem* under the Court-fees Act, 1870, VII of 1870, the value as determinable for the computation of court-fees shall be the value for purposes of jurisdiction.

5. (1) The objection that a suit was not properly valued for purposes of jurisdiction shall not be entertained by an appellate Court unless the objection was taken in the Court of first instance.

(2) If the objection was taken in the Court of first instance but the appellate Court has before it the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the proper Court.

(3) If the appellate Court has not those materials before it, it shall proceed under the rules applicable to it with respect to the hearing of appeals ; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken, it may direct its order either to the Court prescribed in that behalf in those rules or to any Court competent, in its opinion, to entertain the suit ; and the objection that the order of the appellate Court was directed to a Court which was not competent to entertain the suit shall not be taken on further appeal.

(4) Nothing in this section shall be construed to affect the provisions of section 28 of the Court-fees Act, 1870.

VII of 1870.

6. On and from the date on which rules under this Act take effect in any part of the territories under the administration of the

Governor of Fort Saint George in Council to which the Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part :

III of 1873.

Provided that the repeal of that section shall not affect the jurisdiction of any Court with respect to any suit instituted in that part before the rules take effect therein.

7. (1) Rules may be made under this Act at any time after the passing thereof.

Time and procedure for making rules.

(2) A Local Government shall, before making rules under this Act, consult the High Court with respect thereto and publish a draft of the proposed rules in the official Gazette.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified. *

(5) A rule made under this Act shall not take effect before the Act has come into force in the local area for which the rule has been made or till the expiration of one month after the rule has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been made as required by this section.

STATEMENT OF OBJECTS AND REASONS.

THE principal object of this Bill is to prescribe a simple mode of valuing suits relating to land for the purpose of determining the jurisdiction of the Courts with respect to them. Most of those suits are of course cognizable exclusively by Civil Courts, but some of them, as for instance, suits in the Punjab under section 9 of the Specific Relief Act, may be tried by Revenue Courts.

2. It has been brought to the notice of the Government that, while the Civil Courts Acts of the several Provinces, with the exception of that in force in the Presidency of Madras, prescribe no special rules for fixing the value for jurisdiction of the subject-matter of land-suits, but simply define the limit of the jurisdiction of each grade of Court by the money-value of the subject-matter in suit, thus leaving the market-value to be the strictly legal criterion, a practice has sprung up, generally in the inferior Courts, of accepting, in the absence of any express provision of law to the contrary, the court-fee valuation as laid down in section 7, paragraph v, of Act VII of 1870, for purposes of jurisdiction also.

3. The generally admitted result is that land-suits are undervalued and disposed of by Courts not strictly competent to try them. In order to remedy this state of things the present Bill has been prepared. It empowers (section 2) the Local Government to frame rules, subject to the sanction of the Governor-General in Council, for determining the value of land in the territories under its administration for purposes of jurisdiction in the suits mentioned in section 7, paragraphs v and vi, and paragraph x, clause (d), of the Court-fees Act, 1870, namely, suits for possession of land, to enforce a right of pre-emption, and for specific performance of an award relating to land. These rules are to be made after consultation with the High Court; and the Bill provides (section 7) a procedure for the publication of proposed rules, so that the Courts and the public may have an opportunity of preferring any objections which they may have to them before the rules are made. The Bill further declares (section 3) that where a suit mentioned in paragraph iv of section 7, or article 17 of Schedule II, of the Court-fees Act, relates to land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land to which the suit relates as determined by the rules under the Act.

4. In addition to the foregoing provisions, which relate exclusively to land-suits, section 4 provides that in other suits in which court-fees are payable *ad valorem*, the value for purposes of jurisdiction shall be estimated in accordance with the rules which regulate the value for court-fee purposes.

5. Section 5 of the Bill is taken from sections 206-208 of the North-Western Provinces Rent Act, 1881, and has been inserted at the suggestion of Sir Charles Turner, late Chief Justice of Madras. It lays down a special procedure for cases in which the objection that a suit was not properly valued for purposes of jurisdiction is taken in an appellate Court, an objection which the Bill declares may not be entertained unless it was taken in the Court of first instance.

6. Lastly, the Bill (section 6) repeals section 14 of the Madras Civil Courts Act, 1873, which enacts the rule of valuation which it is the object of this Bill to abolish, namely, the valuation for jurisdiction in the case of land-suits shall be in accordance with the court-fee valuation prescribed by section 7, paragraph v, of the Court-fees Act, 1870. In order, however, to prevent hardship or inconvenience to suitors, it is provided that this repeal shall not affect any suit instituted before the rules under the proposed Act take effect.

The 11th August, 1886.

C. P. ILBERT.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th August, 1886:—

NO. 17 OF 1886.

A Bill to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain

information with respect to offences against the public revenue; It is hereby enacted as follows:—

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely:—

“125. (1) No Magistrate, Police-officer or Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence.

(2) ‘Revenue-officer’ in this section means any officer employed in or about the business of any branch of the public revenue.” [Act X, 1872, s. 3.]

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to prevent officers of any department concerned with any branch of the public revenue from being compelled to say whence they got any information as to the commission of any offence.

In England not only is it the case that witnesses may not be compelled to disclose, but they are not even permitted to be asked, the names of those from whom they receive information as to frauds on the revenue (*Russell on Crimes and Misdemeanours*, Fifth Edition, III, 553). The law on the subject is further stated in Bell’s *Laws of Excise* as follows:—

“It is a rule of evidence applicable to criminal cases, and the same rule has always been held to apply to penal informations at the suit of the revenue, that a witness is not permitted to disclose privileged communications brought to his knowledge for the furtherance of justice. This is not the privilege of the witness, but may be justly called a public privilege, and is observed on a principle of public policy and from regard to public interests’ (1 *Phil. Ev.* 272). Hence ‘those questions which tend to the discovery of the channels by which the disclosure was made to the officers of justice, are not permitted to be asked’ (*Rex v. Hardy*, 24 Howell’s S. T. 753—Eyre, L. C. J.). ‘If the name of the informer were to be disclosed, no man would make a discovery, and public justice would be defeated’ (*Id.*, p. 814—Buller, J.). In the case of *Attorney-General v. Bryant* it was held that a witness for the Crown could not be asked ‘Did you give the information?’ (15 M. & W. 169).”

It cannot be ascertained from the records of the Legislative Department why the English law with respect to the disclosure by Revenue-officers of the source of information as to the commission of offences against the revenue was not incorporated in the Indian Evidence Act, 1872. The omission has caused much inconvenience, and is even said to be seriously impairing the efficiency of the Excise and Salt Departments in the Presidency of Bombay.

The 11th August, 1886.

C. P. ILBERT.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 21, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th July, 1886, and was referred to a Select Committee on the 11th August, 1886:—

NO. 15 OF 1886.

A Bill to declare the law in force in Upper Burma.

WHEREAS the territories which were formerly governed by King Thebaw have become part of British India;

And whereas it is expedient to declare the law in force in those territories, and for this purpose to distinguish between those territories and the territories which were under the administration of the Chief Commissioner of British Burma on the thirty-first day of December, 1885;

It is hereby enacted as follows:—

1. This Act may be called the Upper Burma Laws Act, 1886; and it shall come into force at once.

Short title and commencement.

Constitution of Province of Burma.

2. (1) The following territories shall constitute a province to be known as Burma, namely:—

(a) the territories formerly governed by King Thebaw, which shall be known as "Upper Burma"; and

(b) the territories administered by the Chief Commissioner of British Burma on the thirty-first day of December, 1885, which shall be known as "Lower Burma."

(2) The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the official Gazette, transfer any portion of Upper Burma to Lower Burma, or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and on and from that date the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(3) When any portion of Upper Burma is transferred to Lower Burma, the Scheduled Districts Act, 1874, shall, unless the Governor-General in Council otherwise directs, continue to be in force therein.

(4) When any portion of Lower Burma is transferred to Upper Burma, the Governor-General in Council may direct that that Act shall apply thereto.

3. Where in any enactment in force at the passing of this Act the expression "British Burma" occurs, it shall be construed as referring to Lower Burma.

Construction of expression "British Burma" in existing enactments.

4. The enactments specified in the first schedule to this Act, having been rendered unnecessary by the incorporation of Upper Burma in British India, are repealed to the extent mentioned in the third column of the schedule.

5. (1) So much of each of the enactments specified in the second schedule to this Act as is at the passing of this Act in force in any part of Lower Burma which is not included in a scheduled district as defined in the Scheduled Districts Act, 1874, shall be deemed to be in force in Upper Burma generally, or in the district of Mandalay only, according as the enactment is specified in the First or Second Part of the schedule.

Law in force in Upper Burma.

(2) An enactment not specified in that schedule shall not be deemed to be or to have been in force in Upper Burma or in any part of Upper Burma unless it is expressed, by special mention of Upper Burma or a part of Upper Burma, to extend thereto, or after the passing of this Act is extended thereto in exercise of the powers conferred by section 5 of the Scheduled Districts XIV of 1874. Act, 1874, or by any other enactment for the time being in force.

(3) The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, declare that any enactment which is specified in that schedule or which may hereafter be extended in exercise of any such powers as aforesaid, shall no longer be in force in Upper Burma.

6. The following enactments specified in the second schedule to this Act shall, in Upper Burma, be read subject to the following modifications, namely :—

(a) in Act VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*), for the last sixteen words of section 4, the words "or of any person or property exempted by order of the Local Government from payment of tolls" shall be substituted ;

(b) in Act V of 1861 (*an Act for the Regulation of Police*), to section 2 the words "All Myothugyis and Thugyis for the time being holding office shall be police-officers, and shall be deemed to have been formally enrolled under this Act" shall be added ; and

(c) in Act VI of 1864 (*an Act to authorise the punishment of whipping in certain cases*), after section 5 the sections and schedule in the third schedule to this Act shall be added.

[See Zanzibar Order in Council, Part III, Art. 8, cl. (d) (i).]

7. For the purpose of facilitating the application of any enactment for the time being in force in Upper Burma, any Court in Upper Burma may construe the enactment with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court.

[cf. Act XXXIV of 1860, s. 2, & Act XX of 1876, s. 3.]

8. All acts of executive authority, proceedings, decrees and sentences, which have been done, taken or passed in Upper Burma since the seventeenth day of November, 1885, and before the passing of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Local Government, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

9. All rules, orders or instructions made or issued after the seventeenth day of November, 1885, and before the passing of this Act.

this Act for the guidance of officers engaged in the administration of Upper Burma shall be deemed to have had the force of law, and shall, so far as they are consistent with this Act, continue to have the force of law until they are withdrawn, or are superseded by any Act of the Governor-General in Council, or by any Regulation under the Statute 33 Victoria, chapter 3, or by any enactment extended to Upper Burma, or by any rules, orders or instructions made or issued under any such Act, Regulation or enactment.

THE FIRST SCHEDULE.

(See section 4.)

ENACTMENTS REPEALED.

Number and year.	Subject.	Extent of repeal.
1	2	3
Act XXX of 1854.	An Act to provide for the levy of Duties of Customs in the Arakan, Pegu, Martaban and Tenasserim Provinces.	So much as has not been repealed.
Act IV of 1863.	An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burma.	So much as has not been repealed.
Act XII of 1864.	An Act to give further effect to the provisions of Act IV of 1863.	So much as has not been repealed.
Act XXIII of 1872.	An Act for regulating the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava.	The whole.

THE SECOND SCHEDULE.

(See section 5.)

FIRST PART.

Enactments declared in force in Upper Burma generally.

BENGAL REGULATIONS.

Number and year.	Subject.
XI of 1812	Removal of Foreign Emigrants.
III of 1818	State Prisoners.

THE SECOND SCHEDULE—*contd.*FIRST PART—*contd.*

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Subject.
V of 1843 ...	Slavery.
XVIII of 1850 ...	Protection of Judicial Officers.
XIX of 1850 (except s. 24).	Apprentices.
XXXIV of 1850 ...	State Prisoners.
XXXVII of 1850 ...	Inquiries into behaviour of Public Servants.
VIII of 1851 ...	Tolls on Roads and Bridges.
XXX of 1852 ...	Naturalization of Aliens.
II of 1853 ...	Burdens on Land.
XII of 1855 ...	Executors and Administrators.
XIII of 1855 ...	Compensation for death caused by actionable wrong.
XI of 1857 ...	State Offences.
III of 1858 (s. 5) ...	State Prisoners.
XXXV of 1858 ...	Lunatics.
XXXVI of 1858 ...	Lunatic Asylums.
IX of 1859 (except s. 18, last para.) ...	Forfeited Property.
XV of 1859 ...	Inventions.
IX of 1860 ...	Disputes between Workmen and Employers.
XXVII of 1860 (except s. 6 and s. 24, last clause) ...	Collection of Debts on Successions.
XLV of 1860 ...	Penal Code.
V of 1861 ...	Police.
III of 1864 ...	Foreigners.
VI of 1864 (except s. 6) ...	Whipping.
III of 1865 ...	Carriers.
X of 1865 ...	Succession.
XIV of 1866 ...	Post Office.
III of 1867 ...	Public Gambling.
XXV of 1867 ...	Printing-Presses and Newspapers.
XXXII of 1867 ...	Chief Commissioners' Powers.
I of 1868 ...	General Clauses.
IV of 1869 ...	Divorce.
V of 1869 ...	Indian Articles of War.
XV of 1869 ...	Prisoners' Testimony.
XX of 1869 ...	Volunteers.
XXIII of 1870 ...	Coinage.
XXVI of 1870 ...	Prisons.
XXVII of 1870 ...	Penal Code Amendment.
I of 1871 ...	Cattle-trespass.
V of 1871 ...	Prisoners.
XXIII of 1871 ...	Pensions.
I of 1872 ...	Evidence.
XIII of 1872 ...	Patterns and Designs.
XV of 1872 ...	Christian Marriage.
XVIII of 1872 ...	Evidence Act Amendment.
XIX of 1872 ...	Penal Code Amendment.
II of 1873 ...	Burma Ferries.
X of 1873 ...	Oaths.
XIV of 1873 ...	Lunatic Soldiers.
IV of 1874 ...	Foreign Recruiting.
IX of 1874 ...	European Vagrancy.
XIV of 1874 ...	Scheduled Districts.
V of 1875 ...	Native Soldiers.
IX of 1875 ...	Majority.

THE SECOND SCHEDULE—*concl'd.*FIRST PART—*concl'd.*ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—*concl'd.*

Number and year.	Subject.
XIII of 1875 ...	Probates.
XIX of 1876 (except s. 12) ...	Dramatic Performances.
II of 1877 ...	Probates.
XI of 1877 ...	Military Lunatics.
XV of 1877 ...	Limitation.
VI of 1878 ...	Treasure Trove.
XI of 1878 (except ss. 9 and 30) ...	Arms.
III of 1879 (ss. 2, 4 and 8) ...	Destruction of Records.
IV of 1879 ...	Railways.
XXI of 1879 ...	Extradition.
III of 1880 ...	Cantonments.
III of 1882 (s. 3) ...	Seditious Publications.
VIII of 1882 ...	Penal Code Amendment.
IX of 1882 ...	Prisoners Act Amendment.
XX of 1882 ...	Paper Currency.
IV of 1883 ...	Railways.
XVI of 1884 ...	Burma Gaming.
XIII of 1885 ...	Telegraphs.
X of 1886 (ss. 21-25, both inclusive) ...	Penal Code and Prisoners' Act Amendment.
XIII of 1886 ...	Securities.

SECOND PART.

Enactments declared in force in the Mandalay District only.

Number and year.	Subject.
IX of 1872 ...	Contracts.
I of 1877 ...	Specific Relief.
V of 1881 ...	Probate and Administration.
XXVI of 1881 ...	Negotiable Instruments.
II of 1885 ...	Negotiable Instruments Act Amendment.
IV of 1886 ...	Contract Act Amendment.

THE THIRD SCHEDULE.

(See section 6, cl. (c).)

ADDITION TO THE WHIPPING ACT.

"6. (1) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the schedule to this Act, or of any offence which the Local Government, with the previous sanction of the Governor-General in Council, may add to that schedule, may be punished with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

"(2) The Local Government may at any time suspend the operation of this section in whole or in part in any district or part of a district, and, with the previous sanction of the Governor-General in Council, remove the suspension of its operation.

THE THIRD SCHEDULE—*contd.*

"7. Sections 390 to 395 (both inclusive) of the Code of Criminal Procedure, 1882, shall be read as part of this Act."

"THE SCHEDULE.

(See section 6 sub-section (1).)

Section of Indian Penal Code.	Offence.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.
121A	Conspiring to commit certain offences against the State.
122	Collecting arms, &c., with the intention of waging war against the Queen.
124A	Exciting, or attempting to excite, disaffection.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.

THE THIRD SCHEDULE—*concl'd.*

Section of Indian Penal Code.	Offence.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire, or explosive substance, with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire, or explosive substance, with intent to destroy a house, &c.
440	Mischief committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or housebreaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in housebreaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c. Abetment of any of the foregoing offences. Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to declare the law in force in the territories of Upper Burma, which were annexed to British India on the 26th of February, 1886.

2. It is proposed to unite those territories in one province with the territories at present known as British Burma, but, as it is not desirable to introduce immediately into the new territories all the law at present in force in British Burma, it is necessary to distinguish between those territories and British Burma. This the Bill accordingly does (section 2) by dividing the province of Burma into two parts—Upper Burma, the lately annexed territories, and Lower Burma, corresponding to the present British Burma. As, however, in consequence of the present boundary having been aligned without regard to the limits of ancient divisions, it may be convenient to transfer some small portions of Upper Burma to Lower Burma, and of Lower Burma to Upper Burma, the Bill confers special power on the Local Government to do this, subject to the sanction of the Governor-General in Council. In order further to prevent any question being raised as to the local application of Acts at present applying to "British Burma," the Bill (section 3) declares that in enactments now in force that expression is to be construed as referring to Lower Burma.

3. Section 4 repeals some Acts which the incorporation of Upper Burma in British India renders it unnecessary to retain on the Statute-book.

4. Section 5 declares the enactments which are to come into force in Upper Burma. These enactments are enumerated in a schedule which has been prepared by the local authorities. This schedule is based primarily on the schedule to the Arakan Hill District Laws Regulation, 1874, but contains some additional laws which appear to be required by the circumstances of Upper Burma. There is also added a second part to the schedule, specifying a few enactments which are to come into force in the Mandalay district only, where a somewhat more elaborate Code of Laws is required than elsewhere. After declaring these enactments to be in force, the section bars the application of all other enactments, but saves any power of extending enactments which may be conferred by section 5 of the Scheduled Districts Act, 1874, or by any other enactment for the time being in force. Lastly, the section confers on the Local Government a power of withdrawing any enactment which is contained in the schedule or which may hereafter be extended.

5. Section 6 makes certain modifications in Acts VIII of 1851, V of 1861, and VI of 1864, which are considered necessary to adapt them to the peculiar circumstances of Upper Burma, while section 7 permits Courts in Upper Burma, when applying any enactment for the time being in force, to construe it with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court. This provision, which is taken from the Zanzibar Order in Council of 1884, will, it is hoped, in conjunction with the powers conferred on the Local Government by section 6, clause (c), of the Scheduled Districts Act, 1874, be sufficient to remove any technical difficulties which might possibly be raised as to the working of any enactment in force in Upper Burma.

6. Section 8 provides an indemnity which seems necessary in order to cover possible cases that might arise with respect to the action of British officers during the reign of martial law or during the absence of all law in Upper Burma.

7. Finally, section 9, following section 25 of the Indian Councils Act, 1861, validates the Instructions to Civil Officers and other directions issued since the occupation of Upper Burma.

The 14th July, 1886.

C. P. ILBERT.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th August, 1886:—

NO. 16 OF 1886.

A Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows:—

1. (1) This Act may be called the Suits Valuation Act, 1886; and

Short title, local extent and commencement.

(2) It shall extend to such local areas, and come into force therein on such dates, as the Governor-General in Council, by notification in the Gazette of India, from time to time directs.

2. (1) The Local Government may from time to time, with the previous sanction of the Governor-General in Council, make rules for determining the value of land for purposes of jurisdiction.

Power for Local Government to make rules to determine value of land for purposes of jurisdiction.

jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of the local area in which this Act is in force in the territories under the administration of the Local Government, and the value so determined may vary from place to place within the local area or part thereof to which the rules apply.

3. Where a suit mentioned in paragraph iv of section 7, or in article 17 of Schedule II, of the Court-fees Act, 1870, relates to land or an interest in land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or

Value of relief sought in certain suits not to exceed value of the land to which those suits relate.

interest to which the suit relates as determined by the rules made under the last foregoing section.

4. Where in suits other than those referred to in sections 2 and 3 court-fees are payable *ad valorem* under the Court-fees Act, 1870, VII of 1870, the value as determinable for the computation of court-fees shall be the value for purposes of jurisdiction.

5. (1) The objection that a suit was not properly valued for purposes of jurisdiction shall not be entertained by an appellate Court unless the objection was taken in the Court of first instance.

(2) If the objection was taken in the Court of first instance but the appellate Court has before it the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the proper Court.

(3) If the appellate Court has not those materials before it, it shall proceed under the rules applicable to it with respect to the hearing of appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken, it may direct its order either to the Court prescribed in that behalf in those rules or to any Court competent, in its opinion, to entertain the suit; and the objection that the order of the appellate Court was directed to a Court which was not competent to entertain the suit shall not be taken on further appeal.

(4) Nothing in this section shall be construed to affect the provisions of section 28 of the Court-fees Act, 1870.

VII of 1870.

6. On and from the date on which rules under this Act take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part:

III of 1873

Provided that the repeal of that section shall not affect the jurisdiction of any Court with respect to any suit instituted in that part before the rules take effect therein.

7. (1) Rules may be made under this Act at any time after the passing thereof.

Time and procedure for making rules.

(2) A Local Government shall, before making rules under this Act, consult the High Court with respect thereto and publish a draft of the proposed rules in the official Gazette.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect before the Act has come into force in the local area for which the rule has been made or till the expiration of one month after the rule has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been made as required by this section.

STATEMENT OF OBJECTS AND REASONS.

THE principal object of this Bill is to prescribe a simple mode of valuing suits relating to land for the purpose of determining the jurisdiction of the Courts with respect to them. Most of those suits are of course cognizable exclusively by Civil Courts, but some of them, as for instance, suits in the Punjab under section 9 of the Specific Relief Act, may be tried by Revenue Courts.

2. It has been brought to the notice of the Government that, while the Civil Courts Acts of the several Provinces, with the exception of that in force in the Presidency of Madras, prescribe no special rules for fixing the value for jurisdiction of the subject-matter of land-suits, but simply define the limit of the jurisdiction of each grade of Court by the money-value of the subject-matter in suit, thus leaving the market-value to be the strictly legal criterion, a practice has sprung up, generally in the inferior Courts, of accepting, in the absence of any express provision of law to the contrary, the court-fee valuation as laid down in section 7, paragraph v, of Act VII of 1870, for purposes of jurisdiction also.

3. The generally admitted result is that land-suits are undervalued and disposed of by Courts not strictly competent to try them. In order to remedy this state of things the present Bill has been prepared. It empowers (section 2) the Local Government to frame rules, subject to the sanction of the Governor-General in Council, for determining the value of land in the territories under its administration for purposes of jurisdiction in the suits mentioned in section 7, paragraphs v and vi, and paragraph x, clause (d), of the Court-fees Act, 1870, namely, suits for possession of land, to enforce a right of pre-emption, and for specific performance of an award relating to land. These rules are to be made after consultation with the High Court; and the Bill provides (section 7) a procedure for the publication of proposed rules, so that the Courts and the public may have an opportunity of preferring any objections which they may have to them before the rules are made. The Bill further declares (section 3) that where a suit mentioned in paragraph iv of section 7, or article 17 of Schedule II, of the Court-fees Act, relates to land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land to which the suit relates as determined by the rules under the Act.

4. In addition to the foregoing provisions, which relate exclusively to land-suits, section 4 provides that in other suits in which court-fees are payable *ad valorem*, the value for purposes of jurisdiction shall be estimated in accordance with the rules which regulate the value for court-fee purposes.

5. Section 5 of the Bill is taken from sections 206-208 of the North-Western Provinces Rent Act, 1881, and has been inserted at the suggestion of Sir Charles Turner, late Chief Justice of Madras. It lays down a special procedure for cases in which the objection that a suit was not properly valued for purposes of jurisdiction is taken in an appellate Court, an objection which the Bill declares may not be entertained unless it was taken in the Court of first instance.

6. Lastly, the Bill (section 6) repeals section 14 of the Madras Civil Courts Act, 1873, which enacts the rule of valuation which it is the object of this Bill to abolish, namely, the valuation for jurisdiction in the case of land-suits shall be in accordance with the court-fee valuation prescribed by section 7, paragraph v, of the Court-fees Act, 1870. In order, however, to prevent hardship or inconvenience to suitors, it is provided that this repeal shall not affect any suit instituted before the rules under the proposed Act take effect.

The 11th August, 1886.

C. P. ILBERT.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th August, 1886:—

No. 17 OF 1886.

A Bill to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain

information with respect to offences against the public revenue; It is hereby enacted as follows:—

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely:—

“125. (1) No Magistrate, Police-officer or Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence.

(2) ‘Revenue-officer’ in this section means any officer employed in or about the business of any branch of the public revenue.” [Act X, 1872, s. 3.]

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to prevent officers of any department concerned with any branch of the public revenue from being compelled to say whence they got any information as to the commission of any offence.

In England not only is it the case that witnesses may not be compelled to disclose, but they are not even permitted to be asked, the names of those from whom they receive information as to frauds on the revenue (*Russell on Crimes and Misdemeanours*, Fifth Edition, III, 553). The law on the subject is further stated in Bell’s *Laws of Excise* as follows:—

“It is a rule of evidence applicable to criminal cases, and the same rule has always been held to apply to penal informations at the suit of the revenue, that a witness is not permitted to disclose privileged communications brought to his knowledge for the furtherance of justice. ‘This is not the privilege of the witness, but may be justly called a public privilege, and is observed on a principle of public policy and from regard to public interests’ (1 *Phil. Ev.* 272). Hence ‘those questions which tend to the discovery of the channels by which the disclosure was made to the officers of justice, are not permitted to be asked’ (*Rex v. Hardy*, 24 Howell’s S. T. 753—Eyre, L. C. J.). ‘If the name of the informer were to be disclosed, no man would make a discovery, and public justice would be defeated’ (*Id.*, p. 814—Buller, J.). In the case of *Attorney-General v. Bryant* it was held that a witness for the Crown could not be asked ‘Did you give the information?’ (15 M. & W. 169).”

It cannot be ascertained from the records of the Legislative Department why the English law with respect to the disclosure by Revenue-officers of the source of information as to the commission of offences against the revenue was not incorporated in the Indian Evidence Act, 1872. The omission has caused much inconvenience, and is even said to be seriously impairing the efficiency of the Excise and Salt Departments in the Presidency of Bombay.

The 11th August, 1886.

C. P. ILBERT

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 18th August, 1886:—

NO. 18 OF 1886.

A Bill to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Acts, 1879 to 1882; It is hereby enacted as follows:—

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1886; and it and the Dekkhan Agriculturists' Relief Acts, 1879 to 1882, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

(2) This Act shall come into force on the first day of January, 1887.

2. In this Act, unless there is something repugnant in the subject or context,—

“section” means a section, and “chapter” a chapter, of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881, and the Dekkhan Agriculturists' Relief Act, 1882.

3. To section 1 the following shall be added after the word “Ahmad-nagar”, namely:—

“but may from time to time be extended wholly or in part by the Local Govern-

ment, with the previous sanction of the Governor-General in Council, to any other district or districts in the Presidency of Bombay.”

4. To section 2 the following shall be added, namely:—

“5th.—‘Lease’ shall be deemed to include a counterpart, kabuliyat, an undertaking to cultivate or occupy and an agreement to lease.”

5. In section 12, for the words “the Court shall, if the amount of the creditor's claim is disputed, enquire” the following shall be substituted, namely:—

“the Court, if the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses, unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall enquire”.

6. In section 22, for the words “No agriculturist's immoveable property shall be attached or sold” the following shall be substituted, namely:—

“Immoveable property belonging to an agriculturist, other than his standing crops, shall not be attached or sold”.

7. To section 40 the following shall be added, namely:—

“A Conciliator empowered by the Local Government in this behalf may, instead of inviting, direct the person against whom the application is made to attend at the time and place either first or subsequently fixed.

“If an applicant, or a person against whom an application is made, fails to be present or attend at the time and place specified in a direction proceeding from a Conciliator under this section, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code.”

Addition to proviso to section 56.

be added, namely:—

III of 1877.

“or to any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act.”

9. (1) For the second paragraph of section 58 the following shall be substituted, namely:—

“As soon as all the intending executants have executed any instrument under section 57, the Village-Registrar shall register it by entering in his register an abstract of it in such manner and with such particulars as the Inspector General of Registration may, from time to time, with the previous sanction of the Local Government, prescribe, and shall then deliver the instrument to the party entitled to the custody of it.”

(2) In the third paragraph of the same section, the words “and each such copy” are repealed.

(3) After the same section the following shall be added, namely:—

“A certified copy of any entry in the register shall be granted by the Village-Registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument.”

10. After Chapter VIII and section 63 the following shall be inserted, namely:—

“CHAPTER VIII A.
“REGISTRATION UNDER THE INDIAN REGISTRATION ACT, 1877.

“63A. (1) When an agriculturist intends to execute any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act, he shall appear

III of 1877.

Mode of execution by agriculturists of instruments required to be registered under Act III of 1877.

before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-Registrar shall write the instrument, or cause it to be written, and require it to be executed, and attest it and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act, in accordance with the procedure prescribed for a Village-Registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the Indian Registration Act, 1877.

“(2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last-mentioned unless it has been written, executed and attested in the manner provided in that sub-section.”

11. (1) In section 72, for the words “under this Act”, where they first occur, the words “of the description mentioned in section 3, clause (w),” shall be substituted.

(2) In the same section, the words “not being merely a surety for the principal debtor” are repealed.

(3) For the proviso to the same section the following shall be substituted, namely:—

“Provided that nothing in this section shall—

“(i) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not, at the time when the cause of action arose, an agriculturist; or

“(ii) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.”

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to make in the Dekkhan Agriculturists' Relief Act, 1879, certain amendments suggested by a report on the working of the Act and by the further experience gained during the four years which have elapsed since the Act last underwent revision.

2. By section 3 of the Bill it is proposed to empower the Local Government, with the previous sanction of the Governor-General in Council, to extend the Act wholly or in part to any district in the Presidency of Bombay. The effect of this provision will be to render it unnecessary for the Council of the Governor-General to undertake legislation whenever it may be deemed expedient to extend to any district either the whole of the Act or any particular provisions of it, such as those requiring the history of transactions with agriculturist-debtors to be investigated or those relating to the mode of taking accounts.

3. By section 4 the expression “lease” is defined as in the Indian Registration Act, 1877. The insertion of this definition in section 2 of the Act is deemed desirable because in section 56 the word “lease” must be taken to mean a kabuliyat or undertaking to cultivate or occupy rather than a lease in its ordinary sense.

4. Section 5 has been introduced, on the recommendation of the Special Judge, for reasons which are stated as follows:—

“Section 7 of the Act merely makes the examination of the defendant compulsory in all suits under Chapter II, which includes even non-agriculturist suits; but sections 12-14 apply to many suits which affect agriculturists only and do not fall under Chapter II, and it is even more important that the defendant should be examined as a witness in such suits than in many of the suits to which Chapter II applies. The defendant is generally the debtor, but in redemption-suits it is the plaintiff who is the debtor, and it is his examination that is most necessary. It is moreover almost impossible for the Courts to investigate the past history of an old debt in a satisfactory manner without examining both creditor and debtor as witnesses. Again, unless a provision against *ex parte*

decrees be inserted in Chapter III, it will not be possible to guard against *ex parte* decrees in other districts to which the Act may hereafter be extended without also extending the other provisions of Chapter II at the same time."

5. Standing crops are usually the legitimate security for an advance for the purposes of cultivation. It is proposed, therefore, by section 6 of the Bill, to make the standing crops of an agriculturist liable to be taken in execution of a decree even though they have not been specifically mortgaged for the repayment of the debt to which the decree relates.

6. The proposal to confer on Conciliators the power to require the attendance of persons against whom applications are made under section 39 of the Act was negatived by the Council of the Governor-General in 1882. The Government of Bombay has now urged the reconsideration of the proposal on the ground that the present law deprives the Conciliator in a large proportion of cases of all chance of exercising his functions. The statistics of late years fully support this view, while they prove that, where parties have attended before Conciliators, conciliation has been annually more and more successful. It is proposed, therefore, by section 7 of the Bill, to empower selected Conciliators not only to invite, but to require, the attendance before them of persons against whom applications are made.

7. Sections 8, 9 and 10 of the Bill modify those provisions of the existing law which relate to registration, by requiring documents of which the registration is compulsory under the Indian Registration Act, 1877, to be registered by Registering-officers appointed under that Act instead of by Village-Registrars appointed under the Dekkhan Agriculturists' Relief Act, 1879. But Registering-officers under the former Act are, where the executants of those documents are agriculturists, to observe the procedure prescribed for observance by Village-Registrars under the latter Act. Village-Registrars are to continue to register documents of which the registration is not compulsory under the Indian Registration Act, 1877. They are, however, to be relieved of much of the clerical labour imposed on them by the existing law. Instead of making at least two copies of the documents which they register, they are to enter in their registers, in such form as may be prescribed, abstracts only of the documents; and provision is made for granting copies of the abstracts free of charge, and for the admission of the copies as evidence of the contents of the documents.

8. The reasons for the amendments which it is proposed by section 11 of the Bill to make in section 72 of the Act are stated by the Special Judge as follows:—

"The words 'not being merely a surety for the principal debtor' were introduced by Act XXIII of 1881, in order to prevent the anomaly of the agriculturist surety of a non-agriculturist principal being held liable for a debt, after such debt has become time-barred as against his principal; but the amendment has itself produced a converse anomaly, namely, that, when principal and surety are both of them agriculturists, the extended period of limitation applies to the principal and not to the surety. As soon as the recent decisions to this effect become generally known, the result will be that even the principal debtor will lose the supposed benefit of the extended period of limitation, because few creditors will care to wait for the extended period when such waiting will deprive them of their remedy against the surety. I may mention here that the expression *suits under this Act* at the beginning of section 72 is objectionable, because there are no suits properly speaking under the Act. I think the words should be *suits of the description mentioned in section 3, clause (w)*. This would include all suits on bonds, khatahs, written acknowledgments, and the like, and would exclude suits for rent, suits for damages, &c., to which there is no necessity of applying a special law of limitation."

The 18th August, 1886.

T. C. HOPE.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 28, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor-General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

Third publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th July, 1886, and was referred to a Select Committee on the 11th August, 1886:—

NO. 15 OF 1886.

A Bill to declare the law in force in Upper Burma.

WHEREAS the territories which were formerly governed by King Thebaw have become part of British India;

And whereas it is expedient to declare the law in force in those territories, and for this purpose to distinguish between those territories and the territories which were under the administration of the Chief Commissioner of British Burma on the thirty-first day of December, 1885;

It is hereby enacted as follows:—

1. This Act may be called the Upper Burma Laws Act, 1886; and it shall come into force at once.

Short title and commencement.

Constitution of Province of Burma.

2. (1) The following territories shall constitute a province to be known as Burma, namely:—

(a) the territories formerly governed by King Thebaw, which shall be known as "Upper Burma"; and

(b) the territories administered by the Chief Commissioner of British Burma on the thirty-first day of December, 1885, which shall be known as "Lower Burma."

(2) The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the official Gazette, transfer any portion of Upper Burma to Lower Burma, or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and on and from that date the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(3) When any portion of Upper Burma is transferred to Lower Burma, the Scheduled Districts Act, 1874, shall, unless the Governor-General in Council otherwise directs, continue to be in force therein.

(4) When any portion of Lower Burma is transferred to Upper Burma, the Governor-General in Council may direct that that Act shall apply thereto.

3. Where in any enactment in force at the passing of this Act the expression "British Burma" occurs, it shall be construed as referring to Lower Burma.

4. The enactments specified in the first schedule to this Act, having been rendered unnecessary by the incorporation of Upper Burma in British India, are repealed to the extent mentioned in the third column of the schedule.

5. (1) So much of each of the enactments specified in the second schedule to this Act as is at the passing of this Act in force in any part of Lower Burma which is not included in a scheduled district as defined in the Scheduled Districts Act, 1874, shall be deemed to be in force in Upper Burma generally, or in the district of Mandalay only, according as the enactment is specified in the First or Second Part of the schedule.

(2) An enactment not specified in that schedule shall not be deemed to be or to have been in force in Upper Burma or in any part of Upper Burma unless it is expressed, by special mention of Upper Burma or a part of Upper Burma, to extend thereto, or after the passing of this Act is extended thereto in exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, or by any other enactment for the time being in force.

(3) The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, declare that any enactment which is specified in that schedule or which may hereafter be extended in exercise of any such powers as aforesaid, shall no longer be in force in Upper Burma.

6. The following enactments specified in the second schedule to this Act shall, in Upper Burma, be read subject to the following modifications, namely:—

(a) in Act VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*), for the last sixteen words of section 4, the words "or of any person or property exempted by order of the Local Government from payment of tolls" shall be substituted;

(b) in Act V of 1861 (*an Act for the Regulation of Police*), to section 2, the words "All Myothugyis and Thugyis for the time being holding office shall be police-officers, and shall be deemed to have been formally enrolled under this Act" shall be added; and

(c) in Act VI of 1864 (*an Act to authorise the punishment of whipping in certain cases*), after section 5 the sections and schedule in the third schedule to this Act shall be added.

7. For the purpose of facilitating the application of any enactment for the time being in force in Upper Burma, any Court in Upper Burma may construe the enactment with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court.

8. All acts of executive authority, proceedings, decrees and sentences, which have been done, taken or passed in Upper Burma since the seventeenth day of November, 1885, and before the passing of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Local Government, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

9. All rules, orders or instructions made or issued after the seventeenth day of November, 1885, and before the passing of this Act.

this Act for the guidance of officers engaged in the administration of Upper Burma shall be deemed to have had the force of law, and shall, so far as they are consistent with this Act, continue to have the force of law until they are withdrawn, or are superseded by any Act of the Governor-General in Council, or by any Regulation under the Statute 33 Victoria, chapter 3, or by any enactment extended to Upper Burma, or by any rules, orders or instructions made or issued under any such Act, Regulation or enactment.

THE FIRST SCHEDULE.

(See section 4.)

ENACTMENTS REPEALED.

Number and year.	Subject.	Extent of repeal.
1	2	3
Act XXX of 1854.	An Act to provide for the levy of Duties of Customs in the Arakan, Pegu, Martaban and Tenasserim Provinces.	So much as has not been repealed.
Act IV of 1863.	An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burma.	So much as has not been repealed.
Act XII of 1864.	An Act to give further effect to the provisions of Act IV of 1863.	So much as has not been repealed.
Act XXIII of 1872.	An Act for regulating the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava.	The whole.

THE SECOND SCHEDULE.

(See section 5.)

FIRST PART.

Enactments declared in force in Upper Burma generally.

BENGAL REGULATIONS.

Number and year.	Subject.
XI of 1812	Removal of Foreign Emigrants.
III of 1818	State Prisoners.

THE SECOND SCHEDULE—*contd.*FIRST PART—*contd.*

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Subject.
V of 1843 ...	Slavery.
XVIII of 1850 ...	Protection of Judicial Officers.
XIX of 1850 (except s. 24).	Apprentices.
XXXIV of 1850 ...	State Prisoners.
XXXVII of 1850 ...	Inquiries into behaviour of Public Servants.
VIII of 1851 ...	Tolls on Roads and Bridges.
XXX of 1852 ...	Naturalization of Aliens.
II of 1853 ...	Burdens on Land.
XII of 1855 ...	Executors and Administrators.
XIII of 1855 ...	Compensation for death caused by actionable wrong.
XI of 1857 ...	State Offences.
III of 1858 (s. 5) ...	State Prisoners.
XXXV of 1858 ...	Lunatics.
XXXVI of 1858 ...	Lunatic Asylums.
IX of 1859 (except s. 18, last para.)	Forfeited Property.
XV of 1859 ...	Inventions.
IX of 1860 ...	Disputes between Workmen and Employers.
XXVII of 1860 (except s. 6 and s. 24, last clause).	Collection of Debts on Successions.
XLV of 1860 ...	Penal Code.
V of 1861 ...	Police.
III of 1864 ...	Foreigners.
VI of 1864 (except s. 6).	Whipping.
III of 1865 ...	Carriers.
X of 1865 ...	Succession.
XIV of 1866 ...	Post Office.
III of 1867 ...	Public Gambling.
XXV of 1867 ...	Printing-Presses and Newspapers.
XXXII of 1867 ...	Chief Commissioners' Powers.
I of 1868 ...	General Clauses.
IV of 1869 ...	Divorce.
V of 1869 ...	Indian Articles of War.
XV of 1869 ...	Prisoners' Testimony.
XX of 1869 ...	Volunteers.
XXIII of 1870 ...	Coinage.
XXVI of 1870 ...	Prisons.
XXVII of 1870 ...	Penal Code Amendment.
I of 1871 ...	Cattle-trespass.
V of 1871 ...	Prisoners.
XXIII of 1871 ...	Pensions.
I of 1872 ...	Evidence.
XIII of 1872 ...	Patterns and Designs.
XV of 1872 ...	Christian Marriage.
XVIII of 1872 ...	Evidence Act Amendment.
XIX of 1872 ...	Penal Code Amendment.
II of 1873 ...	Burma Ferries.
X of 1873 ...	Oaths.
XIV of 1873 ...	Lunatic Soldiers.
IV of 1874 ...	Foreign Recruiting.
IX of 1874 ...	European Vagrancy.
XIV of 1874 ...	Scheduled Districts.
V of 1875 ...	Native Soldiers.
IX of 1875 ...	Majority.

THE SECOND SCHEDULE—*concl.*FIRST PART—*concl.*ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—*concl.*

Number and year.	Subject.
XIII of 1875 ...	Probates.
XIX of 1876 (except s. 12).	Dramatic Performances.
II of 1877 ...	Probates.
XI of 1877 ...	Military Lunatics.
XV of 1877 ...	Limitation.
VI of 1878 ...	Treasure Trove.
XI of 1878 (except ss. 9 and 30).	Arms.
III of 1879 (ss. 2, 4 and 8).	Destruction of Records.
IV of 1879 ...	Railways.
XXI of 1879 ...	Extradition.
III of 1880 ...	Cantonments.
III of 1882 (s. 3) ...	Seditious Publications.
VIII of 1882 ...	Penal Code Amendment.
IX of 1882 ...	Prisoners Act Amendment.
XX of 1882 ...	Paper Currency.
IV of 1883 ...	Railways.
XVI of 1884 ...	Burma Gaming.
XIII of 1885 ...	Telegraphs.
X of 1886 (ss. 21-25, both inclusive).	Penal Code and Prisoners' Act Amendment.
XIII of 1886 ...	Securities.

SECOND PART.

Enactments declared in force in the Mandalay District only.

Number and year.	Subject.
IX of 1872 ...	Contracts.
I of 1877 ...	Specific Relief.
V of 1881 ...	Probate and Administration.
XXVI of 1881 ...	Negotiable Instruments.
II of 1885 ...	Negotiable Instruments Act Amendment.
IV of 1886 ...	Contract Act Amendment.

THE THIRD SCHEDULE.

(See section 6, cl. (c).)

ADDITION TO THE WHIPPING ACT.

"6. (1) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the schedule to this Act, or of any offence which the Local Government, with the previous sanction of the Governor-General in Council, may add to that schedule, may be punished with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

"(2) The Local Government may at any time suspend the operation of this section in whole or in part in any district or part of a district, and, with the previous sanction of the Governor-General in Council, remove the suspension of its operation.

X of 1882.

THE THIRD SCHEDULE—*contd.*

"7. Sections 390 to 395 (both inclusive) of the Code of Criminal Procedure, 1882, shall be read as part of this Act."

"THE SCHEDULE.

(See section 6 sub-section (1).)

Section of Indian Penal Code.	Offence.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.
121A	Conspiring to commit certain offences against the State.
122	Collecting arms, &c., with the intention of waging war against the Queen.
124A	Exciting, or attempting to excite, disaffection.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.

THE THIRD SCHEDULE—*concl'd.*

Section of Indian Penal Code.	Offence.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire, or explosive substance, with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire, or explosive substance, with intent to destroy a house, &c.
440	Mischief committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or housebreaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in housebreaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c. Abetment of any of the foregoing offences. Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to declare the law in force in the territories of Upper Burma, which were annexed to British India on the 26th of February, 1886.

2. It is proposed to unite those territories in one province with the territories at present known as British Burma, but, as it is not desirable to introduce immediately into the new territories all the law at present in force in British Burma, it is necessary to distinguish between those territories and British Burma. This the Bill accordingly does (section 2) by dividing the province of Burma into two parts—Upper Burma, the lately annexed territories, and Lower Burma, corresponding to the present British Burma. As, however, in consequence of the present boundary having been aligned without regard to the limits of ancient divisions, it may be convenient to transfer some small portions of Upper Burma to Lower Burma, and of Lower Burma to Upper Burma, the Bill confers special power on the Local Government to do this, subject to the sanction of the Governor-General in Council. In order further to prevent any question being raised as to the local application of Acts at present applying to "British Burma," the Bill (section 3) declares that in enactments now in force that expression is to be construed as referring to Lower Burma.

3. Section 4 repeals some Acts which the incorporation of Upper Burma in British India renders it unnecessary to retain on the Statute-book.

4. Section 5 declares the enactments which are to come into force in Upper Burma. These enactments are enumerated in a schedule which has been prepared by the local authorities. This schedule is based primarily on the schedule to the Arakan Hill District Laws Regulation, 1874, but contains some additional laws which appear to be required by the circumstances of Upper Burma. There is also added a second part to the schedule, specifying a few enactments which are to come into force in the Mandalay district only, where a somewhat more elaborate Code of Laws is required than elsewhere. After declaring these enactments to be in force, the section bars the application of all other enactments, but saves any power of extending enactments which may be conferred by section 5 of the Scheduled Districts Act, 1874, or by any other enactment for the time being in force. Lastly, the section confers on the Local Government a power of withdrawing any enactment which is contained in the schedule or which may hereafter be extended.

5. Section 6 makes certain modifications in Acts VIII of 1851, V of 1861, and VI of 1864, which are considered necessary to adapt them to the peculiar circumstances of Upper Burma, while section 7 permits Courts in Upper Burma, when applying any enactment for the time being in force, to construe it with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court. This provision, which is taken from the Zanzibar Order in Council of 1884, will, it is hoped, in conjunction with the powers conferred on the Local Government by section 6, clause (c), of the Scheduled Districts Act, 1874, be sufficient to remove any technical difficulties which might possibly be raised as to the working of any enactment in force in Upper Burma.

6. Section 8 provides an indemnity which seems necessary in order to cover possible cases that might arise with respect to the action of British officers during the reign of martial law or during the absence of all law in Upper Burma.

7. Finally, section 9, following section 25 of the Indian Councils Act, 1861, validates the Instructions to Civil Officers and other directions issued since the occupation of Upper Burma.

The 14th July, 1886.

C. P. ILBERT.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

[Third publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th August, 1886:—

NO. 16 OF 1886.

A Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows:—

1. (1) This Act may be called the Suits Valuation Act, 1886; and

Short title, local extent and commencement.

(2) It shall extend to such local areas, and come into force therein on such dates, as the Governor-General in Council, by notification in the Gazette of India, from time to time directs.

2. (1) The Local Government may from time to time, with the previous sanction of the Governor-General in Council, make

Power for Local Government to make rules to determine value of land for purposes of jurisdiction.

rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of the local area in which this Act is in force in the territories under the administration of the Local Government, and the value so determined may vary from place to place within the local area or part thereof to which the rules apply.

3. Where a suit mentioned in paragraph iv of

Value of relief sought in certain suits not to exceed value of the land to which those suits relate.

section 7, or in article 17 of Schedule II, of the Court-fees Act, 1870, relates to land or an interest in land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or

interest to which the suit relates as determined by the rules made under the last foregoing section.

4. Where in suits other than those referred to in sections 2 and 3 court-fees are payable *ad valorem* under the Court-fees Act, 1870, VII of 1870, the value as determinable for the computation of court-fees shall be the value for purposes of jurisdiction.

5. (1) The objection that a suit was not properly valued for purposes of jurisdiction shall not be entertained by an appellate Court unless the objection was taken in the Court of first instance.

(2) If the objection was taken in the Court of first instance but the appellate Court has before it the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the proper Court.

(3) If the appellate Court has not those materials before it, it shall proceed under the rules applicable to it with respect to the hearing of appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken, it may direct its order either to the Court prescribed in that behalf in those rules or to any Court competent, in its opinion, to entertain the suit; and the objection that the order of the appellate Court was directed to a Court which was not competent to entertain the suit shall not be taken on further appeal.

(4) Nothing in this section shall be construed to affect the provisions of section 28 of the Court-fees Act, 1870.

VII of 1870.

6. On and from the date on which rules under this Act take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part:

III of 1873.

Provided that the repeal of that section shall not affect the jurisdiction of any Court with respect to any suit instituted in that part before the rules take effect therein.

7. (1) Rules may be made under this Act at any time after the passing thereof.

Time and procedure for making rules.

(2) A Local Government shall, before making rules under this Act, consult the High Court with respect thereto and publish a draft of the proposed rules in the official Gazette.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect before the Act has come into force in the local area for which the rule has been made or till the expiration of one month after the rule has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been made as required by this section.

STATEMENT OF OBJECTS AND REASONS.

THE principal object of this Bill is to prescribe a simple mode of valuing suits relating to land for the purpose of determining the jurisdiction of the Courts with respect to them. Most of those suits are of course cognizable exclusively by Civil Courts, but some of them, as for instance, suits in the Punjab under section 9 of the Specific Relief Act, may be tried by Revenue Courts.

2. It has been brought to the notice of the Government that, while the Civil Courts Acts of the several Provinces, with the exception of that in force in the Presidency of Madras, prescribe no special rules for fixing the value for jurisdiction of the subject-matter of land-suits, but simply define the limit of the jurisdiction of each grade of Court by the money-value of the subject-matter in suit, thus leaving the market-value to be the strictly legal criterion, a practice has sprung up, generally in the inferior Courts, of accepting, in the absence of any express provision of law to the contrary, the court-fee valuation as laid down in section 7, paragraph v, of Act VII of 1870, for purposes of jurisdiction also.

3. The generally admitted result is that land-suits are undervalued and disposed of by Courts not strictly competent to try them. In order to remedy this state of things the present Bill has been prepared. It empowers (section 2) the Local Government to frame rules, subject to the sanction of the Governor-General in Council, for determining the value of land in the territories under its administration for purposes of jurisdiction in the suits mentioned in section 7, paragraphs v and vi, and paragraph x, clause (d), of the Court-fees Act, 1870, namely, suits for possession of land, to enforce a right of pre-emption, and for specific performance of an award relating to land. These rules are to be made after consultation with the High Court; and the Bill provides (section 7) a procedure for the publication of proposed rules, so that the Courts and the public may have an opportunity of preferring any objections which they may have to them before the rules are made. The Bill further declares (section 3) that where a suit mentioned in paragraph iv of section 7, or article 17 of Schedule II, of the Court-fees Act, relates to land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land to which the suit relates as determined by the rules under the Act.

4. In addition to the foregoing provisions, which relate exclusively to land-suits, section 4 provides that in other suits in which court-fees are payable *ad valorem*, the value for purposes of jurisdiction shall be estimated in accordance with the rules which regulate the value for court-fee purposes.

5. Section 5 of the Bill is taken from sections 206-208 of the North-Western Provinces Rent Act, 1881, and has been inserted at the suggestion of Sir Charles Turner, late Chief Justice of Madras. It lays down a special procedure for cases in which the objection that a suit was not properly valued for purposes of jurisdiction is taken in an appellate Court, an objection which the Bill declares may not be entertained unless it was taken in the Court of first instance.

6. Lastly, the Bill (section 6) repeals section 14 of the Madras Civil Courts Act, 1873, which enacts the rule of valuation which it is the object of this Bill to abolish, namely, the valuation for jurisdiction in the case of land-suits shall be in accordance with the court-fee valuation prescribed by section 7, paragraph v, of the Court-fees Act, 1870. In order, however, to prevent hardship or inconvenience to suitors, it is provided that this repeal shall not affect any suit instituted before the rules under the proposed Act take effect.

The 11th August, 1886.

C. P. ILBERT.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th August, 1886:—

No. 17 OF 1886.

A Bill to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain

information with respect to offences against the public revenue; It is hereby enacted as follows:—

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely:—

“125. (1) No Magistrate, Police-officer or Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence.

(2) ‘Revenue-officer’ in this section means any officer employed in or about the business of any branch of the public revenue.” [Act X, 1876, s. 3.]

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to prevent officers of any department concerned with any branch of the public revenue from being compelled to say whence they got any information as to the commission of any offence.

In England not only is it the case that witnesses may not be compelled to disclose, but they are not even permitted to be asked, the names of those from whom they receive information as to frauds on the revenue (*Russell on Crimes and Misdemeanours*, Fifth Edition, III, 553). The law on the subject is further stated in Bell’s *Laws of Excise* as follows:—

“It is a rule of evidence applicable to criminal cases, and the same rule has always been held to apply to penal informations at the suit of the revenue, that a witness is not permitted to disclose privileged communications brought to his knowledge for the furtherance of justice. ‘This is not the privilege of the witness, but may be justly called a public privilege, and is observed on a principle of public policy and from regard to public interests’ (1 *Phil. Ev.* 272). Hence ‘those questions which tend to the discovery of the channels by which the disclosure was made to the officers of justice, are not permitted to be asked’ (*Rex v. Hardy*, 24 Howell’s S. T. 753—Eyre, L. C. J.). ‘If the name of the informer were to be disclosed, no man would make a discovery, and public justice would be defeated’ (*Id.*, p. 814—Buller, J.). In the case of *Attorney-General v. Bryant* it was held that a witness for the Crown could not be asked ‘Did you give the information?’ (15 M. & W. 169).”

It cannot be ascertained from the records of the Legislative Department why the English law with respect to the disclosure by Revenue-officers of the source of information as to the commission of offences against the revenue was not incorporated in the Indian Evidence Act, 1872. The omission has caused much inconvenience, and is even said to be seriously impairing the efficiency of the Excise and Salt Departments in the Presidency of Bombay.

C. P. ILBERT.

The 11th August, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 18th August, 1886:—

NO. 18 OF 1886.

A Bill to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Acts, 1879 to 1882; It is hereby enacted as follows:—

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1886; and it and the Dekkhan Agriculturists' Relief Acts, 1879 to 1882, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

(2) This Act shall come into force on the first day of January, 1887.

2. In this Act, unless there is something repugnant in the subject or context,—

“section” means a section, and “chapter” a chapter, of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881, and the Dekkhan Agriculturists' Relief Act, 1882.

3. To section 1 the following shall be added after the word “Ahmadnagar”, namely:—

“but may from time to time be extended wholly or in part by the Local Govern-

ment, with the previous sanction of the Governor-General in Council, to any other district or districts in the Presidency of Bombay.”

4. To section 2 the following shall be added, namely:—

“5th.—‘Lease’ shall be deemed to include a counterpart, kabuliyat, an undertaking to cultivate or occupy and an agreement to lease.”

5. In section 12, for the words “the Court shall, if the amount of the creditor's claim is disputed, enquire” the following shall be substituted, namely:—

“the Court, if the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses, unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall enquire”.

6. In section 22, for the words “No agriculturist's immoveable property shall be attached or sold” the following shall be substituted, namely:—

“Immoveable property belonging to an agriculturist, other than his standing crops, shall not be attached or sold”.

7. To section 40 the following shall be added, namely:—

“A Conciliator empowered by the Local Government in this behalf may, instead of inviting, direct the person against whom the application is made to attend at the time and place either first or subsequently fixed.

“If an applicant, or a person against whom an application is made, fails to be present or attend at the time and place specified in a direction proceeding from a Conciliator under this section, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code.”

Addition to proviso to section 56.

8. To the proviso to section 56 the following shall be added, namely:—

III of 1877.

“or to any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act.”

9. (1) For the second paragraph of section 58 Amendment of, and the following shall be substituted, namely:—

“As soon as all the intending executants have executed any instrument under section 57, the Village-Registrar shall register it by entering in his register an abstract of it in such manner and with such particulars as the Inspector General of Registration may, from time to time, with the previous sanction of the Local Government, prescribe, and shall then deliver the instrument to the party entitled to the custody of it.”

(2) In the third paragraph of the same section, the words “and each such copy” are repealed.

(3) After the same section the following shall be added, namely:—

“A certified copy of any entry in the register shall be granted by the Village-Registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument.”

10. After Chapter VIII and section 63 the following shall be inserted, namely:—

New chapter and section to follow Chapter VIII and section 63.

“CHAPTER VIII A.

“REGISTRATION UNDER THE INDIAN REGISTRATION ACT, 1877.

“63A. (1) When an agriculturist intends to execute any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act, he shall appear

Mode of execution by agriculturists of instruments required to be registered under Act III of 1877.

III of 1877.

before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-Registrar shall write the instrument, or cause it to be written, and require it to be executed, and attest it and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act, in accordance with the procedure prescribed for a Village-Registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the Indian Registration Act, 1877.

“(2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last-mentioned unless it has been written, executed and attested in the manner provided in that sub-section.”

11. (1) In section 72, for the words “under this Act”, where they first occur, the words “of the description mentioned in section 3, clause (v),” shall be substituted.

(2) In the same section, the words “not being merely a surety for the principal debtor” are repealed.

(3) For the proviso to the same section the following shall be substituted, namely:—

“Provided that nothing in this section shall—

“(i) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not, at the time when the cause of action arose, an agriculturist; or

“(ii) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.”

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to make in the Dekkhan Agriculturists' Relief Act, 1879, certain amendments suggested by a report on the working of the Act and by the further experience gained during the four years which have elapsed since the Act last underwent revision.

2. By section 3 of the Bill it is proposed to empower the Local Government, with the previous sanction of the Governor-General in Council, to extend the Act wholly or in part to any district in the Presidency of Bombay. The effect of this provision will be to render it unnecessary for the Council of the Governor-General to undertake legislation whenever it may be deemed expedient to extend to any district either the whole of the Act or any particular provisions of it, such as those requiring the history of transactions with agriculturist-debtors to be investigated, or those relating to the mode of taking accounts.

3. By section 4 the expression “lease” is defined as in the Indian Registration Act, 1877. The insertion of this definition in section 2 of the Act is deemed desirable because in section 56 the word “lease” must be taken to mean a kabuliyat or undertaking to cultivate or occupy rather than a lease in its ordinary sense.

4. Section 5 has been introduced, on the recommendation of the Special Judge, for reasons which are stated as follows:—

“Section 7 of the Act merely makes the examination of the defendant compulsory in all suits under Chapter II, which includes even non-agriculturist suits; but sections 12-14 apply to many suits which affect agriculturists only and do not fall under Chapter II, and it is even more important that the defendant should be examined as a witness in such suits than in many of the suits to which Chapter II applies. The defendant is generally the debtor, but in redemption-suits it is the plaintiff who is the debtor, and it is his examination that is most necessary. It is moreover almost impossible for the Courts to investigate the past history of an old debt in a satisfactory manner without examining both creditor and debtor as witnesses. Again, unless a provision against *ex parte*

decrees be inserted in Chapter III, it will not be possible to guard against *ex parte* decrees in other districts to which the Act may hereafter be extended without also extending the other provisions of Chapter II at the same time."

5. Standing crops are usually the legitimate security for an advance for the purposes of cultivation. It is proposed, therefore, by section 6 of the Bill, to make the standing crops of an agriculturist liable to be taken in execution of a decree even though they have not been specifically mortgaged for the repayment of the debt to which the decree relates.

6. The proposal to confer on Conciliators the power to require the attendance of persons against whom applications are made under section 39 of the Act was negatived by the Council of the Governor-General in 1882. The Government of Bombay has now urged the reconsideration of the proposal on the ground that the present law deprives the Conciliator in a large proportion of cases of all chance of exercising his functions. The statistics of late years fully support this view, while they prove that, where parties have attended before Conciliators, conciliation has been annually more and more successful. It is proposed, therefore, by section 7 of the Bill, to empower selected Conciliators not only to invite, but to require, the attendance before them of persons against whom applications are made.

7. Sections 8, 9 and 10 of the Bill modify those provisions of the existing law which relate to registration, by requiring documents of which the registration is compulsory under the Indian Registration Act, 1877, to be registered by Registering-officers appointed under that Act instead of by Village-Registrars appointed under the Dekkhan Agriculturists' Relief Act, 1879. But Registering-officers under the former Act are, where the executants of those documents are agriculturists, to observe the procedure prescribed for observance by Village-Registrars under the latter Act. Village-Registrars are to continue to register documents of which the registration is not compulsory under the Indian Registration Act, 1877. They are, however, to be relieved of much of the clerical labour imposed on them by the existing law. Instead of making at least two copies of the documents which they register, they are to enter in their registers, in such form as may be prescribed, abstracts only of the documents; and provision is made for granting copies of the abstracts free of charge, and for the admission of the copies as evidence of the contents of the documents.

8. The reasons for the amendments which it is proposed by section 11 of the Bill to make in section 72 of the Act are stated by the Special Judge as follows:—

"The words 'not being merely a surety for the principal debtor' were introduced by Act XXIII of 1881, in order to prevent the anomaly of the agriculturist surety of a non-agriculturist principal being held liable for a debt, after such debt has become time-barred as against his principal; but the amendment has itself produced a converse anomaly, namely, that, when principal and surety are both of them agriculturists, the extended period of limitation applies to the principal and not to the surety. As soon as the recent decisions to this effect become generally known, the result will be that even the principal debtor will lose the supposed benefit of the extended period of limitation, because few creditors will care to wait for the extended period when such waiting will deprive them of their remedy against the surety. I may mention here that the expression *suits under this Act* at the beginning of section 72 is objectionable, because there are no suits properly speaking under the Act. I think the words should be *suits of the description mentioned in section 5, clause (v)*. This would include all suits on bonds, khatas, written acknowledgments, and the like, and would exclude suits for rent, suits for damages, &c., to which there is no necessity of applying a special law of limitation."

The 18th August, 1886.

T. C. HOPE.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th August, 1886:—

No. 19 OF 1886.

A Bill to annex the Town and Fort of Jhānsī and certain adjacent Territory to the Jhānsī District, and for certain other purposes.

Short title and commencement.

Act, 1886; and

1. (1) This Act may be called the Jhānsī and Morar

(2) It shall come into force on a date to be appointed in this behalf by the Lieutenant-Governor of the North-Western Provinces, which date is in this Act referred to as the commencement of this Act.

PART I.

WHEREAS since the beginning of March, 1886, the fort and town of Jhānsī have been ceded to the British Government in full sovereignty by His Highness the Mahāājā Scindia in exchange for the cantonment of Morar which has been ceded to His Highness in full sovereignty by the British Government;

And whereas the town and fort of Jhānsī have been declared by the Governor-General in Council to be subject to the Lieutenant-Governorship of the North-Western Provinces;

And whereas it is proposed that certain lands in the neighbourhood of the town and fort of Jhānsī should be ceded to the British Government in full sovereignty by His Highness in exchange for certain other lands in that neighbourhood to be ceded to His Highness in full sovereignty by the British Government;

And whereas it is expedient that the town and fort of Jhānsī, and the lands to be ceded to the British Government, should be annexed to the Jhānsī district, and that the law in force therein should be the same as the law in force in that district;

And whereas it is also expedient that the town and fort, and the lands in the neighbourhood thereof which may be ceded to the British Government, should, for the purposes of the Scheduled

Districts Act, 1874, form part of the Jhānsī XIV of 1874. district;

It is hereby enacted as follows:—

2. The town and fort of Jhānsī, and the lands in the neighbourhood thereof, of which may be ceded to the British Government in accordance with the proposal referred to in the preamble to this Part, shall, in the case of the town and fort, from the commencement of this Act, and, in the case of any of the lands, from the date of the cession thereof, be deemed to be part of the Jhānsī district.

3. All enactments which at the commencement of this Act, or at the date of the cession of any of the lands referred to in the last foregoing section, are or shall be in force in the Jhānsī district and not in the town and fort of Jhānsī or those lands, shall then come into force in the town and fort or those lands, as the case may be.

4. On and from the commencement of this Act, or the date of the cession of any of those lands, as the case may be, the town and fort of Jhānsī and the lands shall be deemed to form part of the district of Jhānsī mentioned in Part IV of the first schedule to the Scheduled Districts Act, 1874.

XIV of 1874.

5. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed in or with respect to the town and fort of Jhānsī since the beginning of March, 1886, and before the commencement of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Lieutenant-Governor of the North-Western Provinces, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

PART II.

And whereas it is expedient that decrees and orders passed by the Civil and Revenue Courts of His Highness in cases which would have been cognizable by the Civil and Revenue Courts of

XIV of 1882.
XVIII of
1867.
XII of 1881.

the Jhānsī district under the Code of Civil Procedure or the Jhānsī Courts Act, 1867, or the North-Western Provinces Rent Act, 1881, if the territory ceded by His Highness had been part of the Jhānsī district at the time of the institution of the cases, should be capable of being executed as if they had been made by the Courts of the Jhānsī district; It is hereby further enacted as follows :—

6. (1) An application for the execution of a decree or order passed by a Civil or Revenue Court of His Highness in any such case as is referred to in the preamble to this Part may, with the previous sanction of the Deputy Commissioner, be made to any Court in the Jhānsī district subordinate to the Court of the Commissioner which may be specified by the Deputy Commissioner in that behalf in his order giving the sanction.

(2) The Deputy Commissioner may for any sufficient cause withhold his sanction to the making of the application, or permit the application to be made on any conditions which in the circumstances he deems it proper to impose.

XV of 1877. (3) The fact that an application is barred by the Indian Limitation Act, 1877, may be a sufficient cause for withholding sanction to the making of the application, but in any case in which the holder of the decree or order has been debarred from enforcing it by reason of the cession of the town and fort of Jhānsī to the British Government, and to which the Deputy Commissioner sees fit to apply the provisions of that Act, the Deputy Commissioner shall, in computing the period of limitation, exclude therefrom the time which has elapsed between the cession of the town and fort and the commencement of this Act.

(4) Subject to revision by the Commissioner of the Jhānsī Division, an order of the Deputy Commissioner sanctioning or refusing to sanction the making of an application under this section, or imposing conditions with respect thereto, shall be final.

PART III.

And whereas it is expedient that traders and others who were entitled immediately before the cession of the cantonment of Morar to institute certain suits in, or make applications for or with respect to the execution of certain decrees to, a Civil Court at Morar should be enabled to institute those suits in, and make those applications to, the Civil Courts at Jhānsī and Agra, and at any other place from time to time appointed in this behalf by the Governor-General in Council, and that the period of limitation in these cases should be extended; It is hereby further enacted as follows :—

7. (1) Any person who at the date of the cession of the cantonment of Morar was entitled to institute in a Civil Court at Morar a suit of any of the descriptions referred to in articles 50 to 54 (both inclusive) or articles 56 to 64 (both inclusive) or articles 74 and 75 of the second schedule to the Indian Limitation Act, 1877, or to make to any such Court an application for or with respect to the execution of a decree in any such suit, may institute the suit or make the application in any Civil Court at Jhānsī or Agra, or other place appointed in that behalf by the Governor-General in Council, which would have jurisdiction in the suit to be instituted, or, as the case may be, would have had jurisdiction in the suit in which the decree to be executed was passed, if the cause of action had arisen within the local limits of its jurisdiction.

(2) Notwithstanding anything in any enactment or notification to the contrary, any Civil Court at Jhānsī or Agra, or other place aforesaid, in which any such suit or application as is referred to in sub-section (1) is instituted or made, shall, subject to the provisions of that sub-section, have jurisdiction to dispose of it.

(3) In computing the period of limitation for any suit or application referred to in this section, the time which has elapsed between the date of the cession of the cantonment of Morar and the commencement of this Act shall be excluded.

STATEMENT OF OBJECTS AND REASONS.

1. This Bill is drawn in three Parts.

2. The object of Part I is to incorporate in the Jhānsī district the fort and town of Jhānsī, which were lately ceded by the Mahārājā Scindia to the British Government in exchange for the cantonment of Morar. The town and fort have already been declared by proclamation under the Statute 28 & 29 Vic., c. 17, section 4, to be subject to the Lieutenant-Governorship of the North-Western Provinces, but legislation is required for the annexation of the town and fort to the Jhānsī district, and for the assimilation of the law in force therein to that in force in the district. The provisions necessary to effect these objects are contained in sections 2 and 3 of the Bill, while section 4 makes it clear that the ceded territory will be part of the scheduled district of Jhānsī; and section 5, which is taken from the corresponding provision in the Upper Burma Laws Bill now before the Legislative Council, validates all acts done since the date of the cession and before the commencement of the Act. As negotiations are at present pending for the exchange of certain lands in the neighbourhood of Jhānsī, the provisions of sections 2, 3 and 4 of the Bill are made prospective, so as to cover the lands which may be ceded.

3. The object of Part II is to give effect to certain decrees and orders of the Gwalior Courts which, by reason of cession of territory, have ceased to be enforceable in those Courts.

4. The object of Part III is to afford relief to certain traders and others formerly carrying on business within the cantonment of Morar who had money-claims enforceable in the local Courts at the time of the cession of the cantonment to the Mahārājā. As the British Courts in the cantonment have necessarily been abolished, these persons have now no means of recovering the amounts due to them at Morar, whilst to follow their debtors to the various places to which they have migrated, and proceed against them in the Civil Courts there, would,

in many cases, put the creditors to greater expenses than the amount of the debts due to them. It is proposed, therefore, by section 7 of the Bill that persons who may have been entitled to file suits of certain classes, or applications for or with respect to the execution of decrees in suits of those classes, in a Morar Civil Court at the date of the cession of the cantonment, may file the suits and applications in the Civil Courts at Jhānsi or Agra, or at any other place appointed by the Governor-General in Council in this behalf, and that the Courts having jurisdiction at those places shall dispose of the suits and applications. In order to save debts which might otherwise have become time-barred, the same section declares that in computing the period of limitation for the suits and applications, the time which has elapsed between the date of the cession of the cantonment and the commencement of the Act shall be excluded.

The 25th August, 1886.

C. P. ILBERT.

S. HARVEY JAMES,

Offg. Secretary to the Government of India

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th August, 1886:—

NO. 20 OF 1886.

THE NATIVE PASSENGER SHIPS
BILL, 1886.

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SCHEDULE.—ENACTMENTS REPEALED.

A Bill to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to native passenger ships; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Native Passenger Ships Act, 1886.

[Act VIII, 1876, s. 2.]

Extent and application.

2. (1) It extends to the whole of British India, and applies—
 - (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;
 - (b) to all native Indian subjects of Her Majesty without and beyond British India; and,
 - (c) subject to the exceptions mentioned in sub-section (2), to vessels carrying more than thirty passengers being natives of Asia or Africa.
- (2) But it does not apply—
 - (i) to any ship-of-war or transport belonging to, or in the service of, Her Majesty, or
 - (ii) to any ship-of-war belonging to any Foreign Prince or State, or
 - (iii) to any sailing-vessel not carrying as passengers more than thirty natives of Asia or Africa, or
 - (iv) to any steamer not carrying as passengers more than sixty such natives, or
 - (v) to any sailing-vessel or steamer not intended to convey passengers to or from any port in British India;

Provided, with respect to clauses (iii) and (iv) of this sub-section, that the Local Government may, with the previous sanction of the Governor-General in Council, declare all or any of the provisions of this Act to apply to sailing-vessels, or any class of sailing-vessels, carrying as passengers more than fifteen natives of Asia or Africa, and to steamers, or any class of steamers, carrying as passengers more than thirty such natives.

3. This Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India* appoints.

4. (1) On and from that day the enactments mentioned in the schedule to this Act shall be repealed to the extent specified in the third column thereof.

(2) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

5. In this Act, unless there is something repugnant in the subject or context,—

(1) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class, and includes a Justice of the Peace and, at the Port of Aden, the Resident or an Assistant Resident;

(2) "ship" includes every description of vessel used in navigation not propelled by oars;

(3) "master" includes every person (other than a pilot) having command or charge of a ship;

(4) "passenger" means a person above the age of twelve years, or two persons between the ages of one year and twelve years; but it does not include either a person in attendance on another person who is not a native of Asia or Africa, or a child under one year of age;

(5) "voyage" means the whole distance between the ship's port of departure and her final port of arrival;

(6) "long voyage" means any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port;

(7) "short voyage" means any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port;

Illustration.

A ship starts from port A, and is destined finally to arrive at port B, between which ports the ordinary distance is ten days; but she is to touch at four intermediate ports, no one of which is in ordinary circumstances more than five days from the next one. This is a short voyage.

(8) "Chief Officer of Customs" means the executive officer of highest rank in the Department of Customs in any port to which this Act applies.

The Native Passenger Ships Bill, 1886.
(Chapter II.—Rules for all Voyages.—Sections 6-15.)

CHAPTER II.

RULES FOR ALL VOYAGES.

Act VIII, 1876, s. 6.] 6. (1) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded upon a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

Act VIII, 1876, s. 7.] 7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer authorised in this behalf by the Local Government that the ship is to carry native passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

Act VIII, 1876, s. 8.] 8. After receiving the notice, the officer aforesaid, or a person authorized by him, shall be at liberty at all times to enter and inspect the ship and the fittings, provisions and stores therein.

Act VIII, 1876, s. 9.] 9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer of the Government whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

Act VIII, 1876, s. 10.] 10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

Act VIII, 1876, s. 11.] Contents of certificate B. 11. The second of the certificates (hereinafter called "certificate B") shall state—

(a) the voyage which the ship is to make and the intermediate ports, if any, at which she is to touch;

(b) that she has the proper complement of officers and seamen;

(c) that provisions, fuel and pure water, over and above what is necessary for the crew, and the other things if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable), according to the scale for the time being prescribed by those rules;

(d) that the master holds certificate A;

(e) if the ship is to make a short voyage in a season of foul weather, and to carry

upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(f) if she is to sail to any port in the Red Sea, that she is propelled principally by steam and, if she is to carry more than one hundred passengers being natives of Asia or Africa, that she has on board a medical officer licensed in accordance with the rules under this Act; and

(g) such other particulars, if any, as may be prescribed by those rules.

12. The person by whom certificate A and certificate B are to be granted shall be the officer referred to in section 7. [Act VIII, 1876, s. 12.]

13. Where the master of a ship produces to that officer either of the following certificates, namely— [Act VIII, 1876, s. 13.]

(a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(b) a certificate granted under the authority of a British Indian Government on a date not more than one year before the proposed day of sailing and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, [Act VII, 1884, s. 41.]

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

14. (1) After receiving the notice required by section 7, the officer aforesaid may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make: [Act VIII, 1876, s. 14.]

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer aforesaid causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer aforesaid should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

15. (1) The officer authorized to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers. [Act VIII, 1876, s. 15.]

The Native Passenger Ships Bill, 1886.

(Chapter II.—Rules for all Voyages.—Sections 16-17.—Chapter III.—Rules for short Voyages.—Sections 18-20.—Chapter IV.—Rules for long Voyages.—Sections 21-23.)

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer aforesaid to grant or withhold a certificate under this Act.

[Act VIII, 1876, s. 16.]

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

[Act VIII, 1876, s. 17.]

16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up in that part during the voyage.

Copy of certificates to be exhibited.

[Act VIII, 1876, s. 18, amended.]

17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use provisions of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, apply so far as regards the supply of provisions for that passenger.

Supply by passengers of their own provisions.

CHAPTER III.

RULES FOR SHORT VOYAGES.

[Act VIII, 1876, s. 19.]

18. (1) For seasons of fair weather, a ship performing a short voyage shall contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and shall contain on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

Space to be available for passengers.

(2) For seasons of foul weather, a ship propelled by sails and performing a short voyage shall contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and shall contain on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and shall contain on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

[Act VIII, 1876, s. 20.]

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master

Ship taking additional passengers at intermediate port.

shall obtain a supplementary certificate from the proper officer at that port, stating—

(a) the number of passengers so taken on board; and

(b) that provisions, fuel and pure water, over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable), according to the scale for the time being prescribed by those rules:

Provided that, if the certificate B held by the master of the ship states that provisions, fuel and pure water, over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

20. When the ship reaches her final port of Report of deaths on arrival, the master shall notify, to such officer as the Governor-General in Council appoints in this behalf, the date and supposed cause of death of every passenger dying on the voyage. [Act VI, 1876, s. 21.]

CHAPTER IV.

RULES FOR LONG VOYAGES.

21. (1) A ship propelled by sails and performing a long voyage shall contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger. [Act VI, 1876, s. 22.]

(2) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers and the number of the crew, and shall deliver them to the officer appointed under section 20, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements. [Act VIII, 1876, s. 23.]

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall forthwith on the arrival of the ship at her destination or at any port at which it may be intended to land passengers, and before any passengers are landed, produce the statement, with any additions thereto made, to any person lawfully exercising consular authority on behalf of Her Majesty at the port of

Deaths on voyage.

The Native Passenger Ships Bill, 1886.
(Chapter IV.—Rules for long Voyages.—Sections 24-30.—Chapter V.—Penalties.—Sections 31-33.)

arrival if it is a foreign port, or to the Chief Officer of Customs, or the officer (if any) appointed under this Act to receive such statements, at any port or place at which it is intended to land the passengers or any of them.

15. Ship taking additional passengers and touching at intermediate port.

24. (1) In either of the following cases, namely,—

(a) if, after the ship has departed or proceeded on a long voyage, any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or

(b) if the ship upon her voyage touches or arrives at any such port, having previously received on board additional passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the proper officer at that port, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Act in that behalf shall be applicable to any certificate granted or statement made under this section.

25. In the case of a ship sailing from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of Rs. 5,000, conditioned—

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers; and

(b) that the master and medical officer (if any) of the ship shall comply with on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships sailing between ports in British India and ports in the Red Sea as the Governor-General in Council may make under this Act.

26. A ship carrying more than sixty passengers being natives of Asia or Africa, and sailing from any port in British India to any port in the Red Sea, or from any port in the Red Sea to any port in British India, shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

27. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than in the proportion prescribed for her by this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

28. A ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers being natives of Asia or Africa shall have on board a medical officer licensed in accordance with the rules under this Act. [Act XVII, 1883, s. 6.]

29. A ship sailing from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam. [Act XVII, 1883, s. 6.]

30. (1) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class sailing from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose. [Act XVII, 1883, s. 6.]

(2) If, in the opinion of the officer making an inspection under this section, a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

31. If a ship departs or proceeds upon a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger conveyed in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port within British India, may be seized and detained by any Chief Officer of Customs until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act: [Act VIII, 1876, s. 29.]

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year. [New.]

32. If a person impedes or refuses to allow the entry or inspection authorized under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both. [Act VIII, 1876, s. 30.]

33. If a master or owner wilfully fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both. [Act VIII, 1876, s. 31.]

The Native Passenger Ships Bill, 1886.
(Chapter V.—Penalties.—Sections 34-44.)

[Act VIII,
1876, s. 32.]

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statement of passengers, or wilfully makes any false entry or note in or on any such statement, or wilfully fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

[Act VIII,
1876, s. 33.]

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers, or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

[Act VIII,
1876, s. 34.]

36. If a master wilfully, and without satisfactory excuse, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

[Act VIII,
1876, s. 35.]

37. If the master of a ship to which section 26 applies wilfully fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

[Act VIII,
1876, s. 36.]

38. (1) If a ship has on board a number of passengers which, regard being had to the time of the year and other circumstances, is greater than the number allowed by the certificate, or, on arriving from a port where a certificate could not be procured, has on board a number of passengers exceeding the number allowed by this Act for the ship, the master and owner shall, for every passenger over and above the number allowed by the certificate or by this Act, as the case may be, be each punished with fine which may extend to twenty rupees, and the master shall further be liable for each of the passengers over and above that number to imprisonment for a term which may extend to one week:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all passengers over and above the number allowed by the certificate or by this Act, as the case may be, to disembark, and may forward them to any port of British India, and may recover the cost of so forwarding them from

the master or owner of the ship as if the cost was a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

39. If a ship bringing native passengers from any port or place beyond British India, into any port or place in British India, has on board a number of passengers greater either than in the proportion prescribed by section 18 or section 21 or under section 57 (as the case may be) or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that proportion or of that number, be each punished with fine which may extend to twenty rupees.

40. If the master of a ship to which this Act applies lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to a month, or with both.

41. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers, or assurance to them, with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract, engagement or assurance was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

42. If the master or medical officer of any such ship as is referred to in section 26 wilfully breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

43. If a ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers has not on board a medical officer as required by section 28, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

44. If a ship sailing from or to any port in British India to or from any port in the Red Sea is not principally propelled by steam, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

The Native Passenger Ships Bill, 1886.
(Chapter V.—Penalties.—Sections 45—50.—Chapter VI.—Supplemental Provisions.—Sections 51-53.)

Act XVII,
1876, s. 7.]

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both.

Procedure.

Act VIII,
1876, s. 39.]

Adjudication of offences, and levy of fine by distress on ship. 46. (1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a ship and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Act VIII,
1876, s. 40.]

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Act VIII,
1876, s. 41.]

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of the officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Officer of Customs.

Act VIII,
1876, s. 42.]

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the proceedings.

Act VIII,
1876, s. 43.]

50. (1) Whenever, in the course of any legal proceeding under this Act, the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition that he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted:

Provided that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or consular officer;
- (b) it was made in the presence of the person accused; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

51. (1) The Chief Officer of Customs, or the [Act VIII, 1876, s. 44.] officer, if any, appointed under this Act, at any port or place within British India at which any ship to which this Act applies touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship and the passengers conveyed therein to the officer at the port from which the ship commenced her voyage, and to the officer at any other port within British India where the passengers or any of them embarked.

(2) Any officer appointed under this Act may, at any port or place in British India at which a ship to which this Act applies touches, board the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

52. In any proceeding for the adjudication of [Act VIII, 1876, s. 45.] any penalty incurred under this Act, any document purporting to be a report of such particulars as aforesaid or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

53. (1) The Governor-General in Council may [Act VIII, 1876, s. 46.] make rules consistent with this Act, to regulate, in the case of any ship or class of ships to which this Act applies, all or any of the following matters:—

- (a) the scale on which provisions, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the provisions, fuel and water; [New.]
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;
- (c) the licensing and appointment of medical officers in cases where they are required [Act XVII, 1883, s. 8.] under this Act to be carried;
- (d) the boats, anchors and cables to be provided on board;
- (e) the instruments for purposes of navigation to be supplied;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires;
- (g) the provision of means for making signals of distress, and the supply of lights & 40 Vic., c. 1 inextinguishable in water and fitted for attachment to life-buoys; [New. cf. 39, 80, s. 21.]

The Native Passenger Ships Bill, 1886.
(Chapter VI.—Supplemental Provisions.—Sections 54-59.)
(Schedule.—Enactments repealed.)

[Act XVII, 1883, s. 8.] (k) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

[Act XVII, 1883, s. 8.] (i) the access of between-decks passengers to the upper deck; and

(j) generally, to carry out the purposes of this Act.

[New.] (2) The Local Government may make rules consistent with this Act to regulate, in the case of any ship or class of ships to which this Act applies, the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf.

[New.] (3) In making a rule under this section, the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

[New.] 54. (1) An authority making rules under the last foregoing section shall, before making them, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under the last foregoing section shall not take effect if it is made by the Governor-General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Government until it has been published in the local official *Gazette*.

(6) The publication in the *Gazette* of a rule purporting to be made under that section shall be conclusive proof that it has been duly made.

55. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties conferred and imposed by this Act.

56. The Governor-General in Council may declare, by notification in the *Gazette of India*, what shall be deemed "seasons of fair weather" and "long voyages," and "seasons of foul weather," and, for sailing vessels and steamers respectively, a "long voyage" and a "short voyage."

57. The Governor-General in Council may by order prescribe, in the case of any ship or class of ships and for all or any voyages to which this Act applies, the number of superficial or of cubic feet of space to be available for passengers; and the order shall override the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

58. The Local Government may, with the previous sanction of the Governor-General in Council, for any special reason and subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

59. All powers conferred by this Act may be exercised from time to time as occasion requires.

* SCHEDULE.

ENACTMENTS REPEALED.

(See section 4.)

Number and year.	Title.	Extent of repeal.
VIII of 1876	Native Passenger Ships Act, 1876.	The whole.
XVII of 1883	Native Passenger Ships Act, 1883.	The whole.
VII of 1884	Indian Steamships Act, 1884.	Section 41.

STATEMENT OF OBJECTS AND REASONS.

The law relating to native passenger ships is contained in three enactments, namely, the Native Passenger Ships Act, VIII of 1876, and the amending Acts, XVII of 1883 and VII of 1884. Further amendments having now become necessary, the opportunity has been taken to consolidate the law in a single measure.

2. The amendments are not numerous and will be noticed in the order in which they occur in the Bill—

(a) *Section 2.*—The primary object of the proviso to sub-section (2) of this section is to confer on the Government of Bombay the power of having certain small vessels engaged in the pilgrim-trade between Western India and the Hedjaz examined with a view to ascertaining whether or not they are seaworthy.

(b) *Section 11, clause (c).*—The corresponding section of the Act of 1876 requires certificate B to state that provisions, fuel and pure water sufficient for the voyage have been placed on board. It is now proposed to require the certificate to state that the supply is sufficient not only for the voyage but for any probable period of detention in quarantine. On one occasion at least the Government has had to undertake the maintenance of a shipload of pilgrims whose private stock of provisions had become exhausted.

- (c) *Section 41.*—Cases have occurred in which pilgrims who had engaged their passages on the understanding that they would proceed direct to the Hedjaz have been taken on long coasting voyages. The deception thus practised has caused great hardship, pilgrims very frequently taking their own provisions with them (section 18, Act VIII, 1876) and very rarely taking more than is absolutely necessary for their support on the voyage which they believe themselves to have undertaken.
- (d) *Section 53, sub-section (1), clause (g).*—It is proposed, following section 21 of the English Merchant Shipping Act, 1876, to empower the Governor-General in Council to require native passenger ships to be provided with means for making signals of distress and with life-saving apparatus.
- (e) *Section 53, sub-section (2).*—This sub-section is designed to meet a suggestion made by Mr. T. M. Cook, of the firm of Messrs. Thomas Cook & Son, that the embarkation of pilgrims in the "Roads" at Bombay during the monsoon should be forbidden, and that pilgrim-carrying ships should be required to go into dock for the purpose of receiving their passengers during that season.
- (f) *Section 54.*—This section requires drafts of any rules which it is proposed to make under the Act to be published for the information of the public before the rules are made.

The 25th August, 1886.

A. COLVIN.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 4, 1886.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 18th August, 1886:—

NO. 18 OF 1886.

A Bill to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Acts, 1879 to 1882; It is hereby enacted as follows:—

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1886; and it and the Dekkhan Agriculturists' Relief Acts, 1879 to 1882, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

(2) This Act shall come into force on the first day of January, 1887.

2. In this Act, unless there is something repugnant in the subject or context,—

“section” means a section, and “chapter” a chapter, of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881, and the Dekkhan Agriculturists' Relief Act, 1882.

3. To section 1 the following shall be added after the word “Ahmadnagar”, namely:—

“but may from time to time be extended wholly or in part by the Local Govern-

ment, with the previous sanction of the Governor-General in Council, to any other district or districts in the Presidency of Bombay.”

4. To section 2 the following shall be added, namely:—

“5th.—‘Lease’ shall be deemed to include a counterpart, kabuliyat, an undertaking to cultivate or occupy and an agreement to lease.”

5. In section 12, for the words “the Court shall, if the amount of the creditor's claim is disputed, enquire” the following shall be substituted, namely:—

“the Court, if the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses, unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall enquire”.

6. In section 22, for the words “No agriculturist's immoveable property shall be attached or sold” the following shall be substituted, namely:—

“Immoveable property belonging to an agriculturist, other than his standing crops, shall not be attached or sold”.

7. To section 40 the following shall be added, namely:—

“A Conciliator empowered by the Local Government in this behalf may, instead of inviting, direct the person against whom the application is made to attend at the time and place either first or subsequently fixed.

“If an applicant, or a person against whom an application is made, fails to be present or attend at the time and place specified in a direction proceeding from a Conciliator under this section, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code.”

XLV of 1860.

Addition to proviso to section 56.

8. To the proviso to section 56 the following shall be added, namely:—

III of 1877.

“or to any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act.”

9. (1) For the second paragraph of section 58 Amendment of, and the following shall be substituted, namely:—

“As soon as all the intending executants have executed any instrument under section 57, the Village-Registrar shall register it by entering in his register an abstract of it in such manner and with such particulars as the Inspector General of Registration may, from time to time, with the previous sanction of the Local Government, prescribe, and shall then deliver the instrument to the party entitled to the custody of it.”

(2) In the third paragraph of the same section, the words “and each such copy” are repealed.

(3) After the same section the following shall be added, namely:—

“A certified copy of any entry in the register shall be granted by the Village-Registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument.”

10. After Chapter VIII and section 63 the following shall be inserted, namely:—

New chapter and section to follow Chapter VIII and section 63.

“CHAPTER VIII A.

“REGISTRATION UNDER THE INDIAN REGISTRATION ACT, 1877.

“63A. (1) When an agriculturist intends to execute any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act, he shall appear

Mode of execution by agriculturists of instruments required to be registered under Act III of 1877.

III of 1877.

before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-Registrar shall write the instrument, or cause it to be written, and require it to be executed, and attest it and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act, in accordance with the procedure prescribed for a Village-Registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the Indian Registration Act, 1877.

“ (2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last-mentioned unless it has been written, executed and attested in the manner provided in that sub-section.”

11. (1) In section 72, for the words “under this Act”, where they first occur, the words “of the description mentioned in section 3, clause (v),” shall be substituted.

(2) In the same section, the words “not being merely a surety for the principal debtor” are repealed.

(3) For the proviso to the same section the following shall be substituted, namely:—

“Provided that nothing in this section shall—

“(i) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not, at the time when the cause of action arose, an agriculturist; or

“(ii) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.”

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to make in the Dekkhan Agriculturists' Relief Act, 1879, certain amendments suggested by a report on the working of the Act and by the further experience gained during the four years which have elapsed since the Act last underwent revision.

2. By section 3 of the Bill it is proposed to empower the Local Government, with the previous sanction of the Governor-General in Council, to extend the Act wholly or in part to any district in the Presidency of Bombay. The effect of this provision will be to render it unnecessary for the Council of the Governor-General to undertake legislation whenever it may be deemed expedient to extend to any district either the whole of the Act or any particular provisions of it, such as those requiring the history of transactions with agriculturist-debtors to be investigated or those relating to the mode of taking accounts.

3. By section 4 the expression “lease” is defined as in the Indian Registration Act, 1877. The insertion of this definition in section 2 of the Act is deemed desirable because in section 56 the word “lease” must be taken to mean a kabuliyat or undertaking to cultivate or occupy rather than a lease in its ordinary sense.

4. Section 5 has been introduced, on the recommendation of the Special Judge, for reasons which are stated as follows:—

“Section 7 of the Act merely makes the examination of the defendant compulsory in all suits under Chapter II, which includes even non-agriculturist suits; but sections 12-14 apply to many suits which affect agriculturists only and do not fall under Chapter II, and it is even more important that the defendant should be examined as a witness in such suits than in many of the suits to which Chapter II applies. The defendant is generally the debtor, but in redemption-suits it is the plaintiff who is the debtor, and it is his examination that is most necessary. It is moreover almost impossible for the Courts to investigate the past history of an old debt in a satisfactory manner without examining both creditor and debtor as witnesses. Again, unless a provision against *ex parte*

decrees be inserted in Chapter III, it will not be possible to guard against *ex parte* decrees in other districts to which the Act may hereafter be extended without also extending the other provisions of Chapter II at the same time."

5. Standing crops are usually the legitimate security for an advance for the purposes of cultivation. It is proposed, therefore, by section 6 of the Bill, to make the standing crops of an agriculturist liable to be taken in execution of a decree even though they have not been specifically mortgaged for the repayment of the debt to which the decree relates.

6. The proposal to confer on Conciliators the power to require the attendance of persons against whom applications are made under section 39 of the Act was negatived by the Council of the Governor-General in 1882. The Government of Bombay has now urged the reconsideration of the proposal on the ground that the present law deprives the Conciliator in a large proportion of cases of all chance of exercising his functions. The statistics of late years fully support this view, while they prove that, where parties have attended before Conciliators, conciliation has been annually more and more successful. It is proposed, therefore, by section 7 of the Bill, to empower selected Conciliators not only to invite, but to require, the attendance before them of persons against whom applications are made.

7. Sections 8, 9 and 10 of the Bill modify those provisions of the existing law which relate to registration, by requiring documents of which the registration is compulsory under the Indian Registration Act, 1877, to be registered by Registering-officers appointed under that Act instead of by Village-Registrars appointed under the Dekkhan Agriculturists' Relief Act, 1879. But Registering-officers under the former Act are, where the executants of those documents are agriculturists, to observe the procedure prescribed for observance by Village-Registrars under the latter Act. Village-Registrars are to continue to register documents of which the registration is not compulsory under the Indian Registration Act, 1877. They are, however, to be relieved of much of the clerical labour imposed on them by the existing law. Instead of making at least two copies of the documents which they register, they are to enter in their registers, in such form as may be prescribed, abstracts only of the documents; and provision is made for granting copies of the abstracts free of charge, and for the admission of the copies as evidence of the contents of the documents.

8. The reasons for the amendments which it is proposed by section 11 of the Bill to make in section 72 of the Act are stated by the Special Judge as follows:—

"The words 'not being merely a surety for the principal debtor' were introduced by Act XXIII of 1881, in order to prevent the anomaly of the agriculturist surety of a non-agriculturist principal being held liable for a debt, after such debt has become time-barred as against his principal; but the amendment has itself produced a converse anomaly, namely, that, when principal and surety are both of them agriculturists, the extended period of limitation applies to the principal and not to the surety. As soon as the recent decisions to this effect become generally known, the result will be that even the principal debtor will lose the supposed benefit of the extended period of limitation, because few creditors will care to wait for the extended period when such waiting will deprive them of their remedy against the surety. I may mention here that the expression *suits under this Act* at the beginning of section 72 is objectionable, because there are no suits properly speaking under the Act. I think the words should be *suits of the description mentioned in section 3, clause (w)*. This would include all suits on bonds, khatas, written acknowledgments, and the like, and would exclude suits for rent, suits for damages, &c., to which there is no necessity of applying a special law of limitation."

The 18th August, 1886.

T. C. HOPE.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th August, 1886:—

NO. 19 OF 1886.

A Bill to annex the Town and Fort of Jhānsī and certain adjacent Territory to the Jhānsī District, and for certain other purposes.

Short title and commencement. 1. (1) This Act may be called the Jhānsī and Morar Act, 1886; and

(2) It shall come into force on a date to be appointed in this behalf by the Lieutenant-Governor of the North-Western Provinces, which date is in this Act referred to as the commencement of this Act.

PART I.

WHEREAS since the beginning of March, 1886, the fort and town of Jhānsī have been ceded to the British Government in full sovereignty by His Highness the Mahārājā Scindia in exchange for the cantonment of Morar which has been ceded to His Highness in full sovereignty by the British Government;

And whereas the town and fort of Jhānsī have been declared by the Governor-General in Council to be subject to the Lieutenant-Governorship of the North-Western Provinces;

And whereas it is proposed that certain lands in the neighbourhood of the town and fort of Jhānsī should be ceded to the British Government in full sovereignty by His Highness in exchange for certain other lands in that neighbourhood to be ceded to His Highness in full sovereignty by the British Government;

And whereas it is expedient that the town and fort of Jhānsī, and the lands to be ceded to the British Government, should be annexed to the Jhānsī district, and that the law in force therein should be the same as the law in force in that district;

And whereas it is also expedient that the town and fort, and the lands in the neighbourhood thereof which may be ceded to the British Government, should, for the purposes of the Scheduled

Districts Act, 1874, form part of the Jhānsī XIV of 1874. district;

It is hereby enacted as follows:—

2. The town and fort of Jhānsī, and the lands Annexation of ceded in the neighbourhood thereof lands to Jhānsī district. of which may be ceded to the British Government in accordance with the proposal referred to in the preamble to this Part, shall, in the case of the town and fort, from the commencement of this Act, and, in the case of any of the lands, from the date of the cession thereof, be deemed to be part of the Jhānsī district.

3. All enactments which at the commencement of this Act, or at the date of the cession of any of the lands referred to in the last foregoing section, are or shall be in force in the Jhānsī district and not in the town and fort of Jhānsī or those lands, shall then come into force in the town and fort or those lands, as the case may be.

4. On and from the commencement of this Act, or the date of the cession of any of those lands, as the case may be, the town and fort of Jhānsī and the lands shall be deemed to form part of the district of Jhānsī mentioned in Part IV of the first schedule to the Scheduled Districts Act, 1874. XIV of 1874.

5. All acts of executive authority, proceedings, decrees and sentences which of 1876, s. 3.] Validation of acts done since the beginning of March, 1886, have been done, taken or passed in or with respect to the town and fort of Jhānsī since the beginning of March, 1886, and before the commencement of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Lieutenant-Governor of the North-Western Provinces, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

PART II.

And whereas it is expedient that decrees and orders passed by the Civil and Revenue Courts of His Highness in cases which would have been cognizable by the Civil and Revenue Courts of

XIV of 1882.
XVIII of
1867.
XI of 1881.

the Jhānsī district under the Code of Civil Procedure or the Jhānsī Courts Act, 1867, or the North-Western Provinces Rent Act, 1881, if the territory ceded by His Highness had been part of the Jhānsī district at the time of the institution of the cases, should be capable of being executed as if they had been made by the Courts of the Jhānsī district; It is hereby further enacted as follows :—

6. (1) An application for the execution of a decree or order passed by a Civil or Revenue Court of His Highness in any such case as is referred to in the preamble to this Part may, with the previous sanction of the Deputy Commissioner, be made to any Court in the Jhānsī district subordinate to the Court of the Commissioner which may be specified by the Deputy Commissioner in that behalf in his order giving the sanction.

(2) The Deputy Commissioner may for any sufficient cause withhold his sanction to the making of the application, or permit the application to be made on any conditions which in the circumstances he deems it proper to impose.

XV of 1877. (3) The fact that an application is barred by the Indian Limitation Act, 1877, may be a sufficient cause for withholding sanction to the making of the application, but in any case in which the holder of the decree or order has been debarred from enforcing it by reason of the cession of the town and fort of Jhānsī to the British Government, and to which the Deputy Commissioner sees fit to apply the provisions of that Act, the Deputy Commissioner shall, in computing the period of limitation, exclude therefrom the time which has elapsed between the cession of the town and fort and the commencement of this Act.

(4) Subject to revision by the Commissioner of the Jhānsī Division, an order of the Deputy Commissioner sanctioning or refusing to sanction the making of an application under this section, or imposing conditions with respect thereto, shall be final.

PART III.

And whereas it is expedient that traders and others who were entitled immediately before the cession of the cantonment of Morar to institute certain suits in, or make applications for or with respect to the execution of certain decrees to, a Civil Court at Morar should be enabled to institute those suits in, and make those applications to, the Civil Courts at Jhānsī and Agra, and at any other place from time to time appointed in this behalf by the Governor-General in Council, and that the period of limitation in these cases should be extended; It is hereby further enacted as follows :—

7. (1) Any person who at the date of the cession of the cantonment of Morar was entitled to institute in a Civil Court at Morar a suit of any of the descriptions referred to in articles 50 to 54

(both inclusive) or articles 56 to 64 (both inclusive) or articles 74 and 75 of the second schedule to the Indian Limitation Act, 1877, or to make to any such Court an application for or with respect to the execution of a decree in any such suit, may institute the suit or make the application in any Civil Court at Jhānsī or Agra, or other place appointed in that behalf by the Governor-General in Council, which would have jurisdiction in the suit to be instituted, or, as the case may be, would have had jurisdiction in the suit in which the decree to be executed was passed, if the cause of action had arisen within the local limits of its jurisdiction.

(2) Notwithstanding anything in any enactment or notification to the contrary, any Civil Court at Jhānsī or Agra, or other place aforesaid, in which any such suit or application as is referred to in sub-section (1) is instituted or made, shall, subject to the provisions of that sub-section, have jurisdiction to dispose of it.

(3) In computing the period of limitation for any suit or application referred to in this section, the time which has elapsed between the date of the cession of the cantonment of Morar and the commencement of this Act shall be excluded.

STATEMENT OF OBJECTS AND REASONS.

1. This Bill is drawn in three Parts.

2. The object of Part I is to incorporate in the Jhānsī district the fort and town of Jhānsī, which were lately ceded by the Mahārājā Scindia to the British Government in exchange for the cantonment of Morar. The town and fort have already been declared by proclamation under the Statute 28 & 29 Vic., c. 17, section 4, to be subject to the Lieutenant-Governorship of the North-Western Provinces, but legislation is required for the annexation of the town and fort to the Jhānsī district, and for the assimilation of the law in force therein to that in force in the district. The provisions necessary to effect these objects are contained in sections 2 and 3 of the Bill, while section 4 makes it clear that the ceded territory will be part of the scheduled district of Jhānsī; and section 5, which is taken from the corresponding provision in the Upper Burma Laws Bill now before the Legislative Council, validates all acts done since the date of the cession and before the commencement of the Act. As negotiations are at present pending for the exchange of certain lands in the neighbourhood of Jhānsī, the provisions of sections 2, 3 and 4 of the Bill are made prospective, so as to cover the lands which may be ceded.

3. The object of Part II is to give effect to certain decrees and orders of the Gwalior Courts which, by reason of cession of territory, have ceased to be enforceable in those Courts.

4. The object of Part III is to afford relief to certain traders and others formerly carrying on business within the cantonment of Morar who had money-claims enforceable in the local Courts at the time of the cession of the cantonment to the Mahārājā. As the British Courts in the cantonment have necessarily been abolished, these persons have now no means of recovering the amounts due to them at Morar, whilst to follow their debtors to the various places to which they have migrated, and proceed against them in the Civil Courts there, would,

in many cases, put the creditors to greater expenses than the amount of the debts due to them. It is proposed, therefore, by section 7 of the Bill that persons who may have been entitled to file suits of certain classes, or applications for or with respect to the execution of decrees in suits of those classes, in a Morar Civil Court at the date of the cession of the cantonment, may file the suits and applications in the Civil Courts at Jhānsī or Agra, or at any other place appointed by the Governor-General in Council in this behalf, and that the Courts having jurisdiction at those places shall dispose of the suits and applications. In order to save debts which might otherwise have become time-barred, the same section declares that in computing the period of limitation for the suits and applications, the time which has elapsed between the date of the cession of the cantonment and the commencement of the Act shall be excluded.

The 25th August, 1886.

C. P. ILBERT.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th August, 1886:—

NO. 20 OF 1886.

THE NATIVE PASSENGER SHIPS
BILL, 1886.

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SCHEDULE.—ENACTMENTS REPEALED.

A Bill to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to native passenger ships; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Native Passenger Ships Act, 1886.

[Act VIII, 1876, s. 2.]

Extent and application.

2. (1) It extends to the whole of British India, and applies—
 - (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;
 - (b) to all native Indian subjects of Her Majesty without and beyond British India; and,
 - (c) subject to the exceptions mentioned in sub-section (2), to vessels carrying more than thirty passengers being natives of Asia or Africa.
- (2) But it does not apply—
 - (i) to any ship-of-war or transport belonging to, or in the service of, Her Majesty, or
 - (ii) to any ship-of-war belonging to any Foreign Prince or State, or
 - (iii) to any sailing-vessel not carrying as passengers more than thirty natives of Asia or Africa, or
 - (iv) to any steamer not carrying as passengers more than sixty such natives, or
 - (v) to any sailing-vessel or steamer not intended to convey passengers to or from any port in British India:

Provided, with respect to clauses (iii) and (iv) of this sub-section, that the Local Government may, with the previous sanction of the Governor-General in Council, declare all or any of the provisions of this Act to apply to sailing-vessels, or any class of sailing-vessels, carrying as passengers more than fifteen natives of Asia or Africa, and to steamers, or any class of steamers, carrying as passengers more than thirty such natives.

3. This Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India* appoints.

4. (1) On and from that day the enactments mentioned in the schedule to this Act shall be repealed to the extent specified in the third column thereof.

(2) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

5. In this Act, unless there is something repugnant in the subject or context,—

(1) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class, and includes a Justice of the Peace and, at the Port of Aden, the Resident or an Assistant Resident:

(2) "ship" includes every description of vessel used in navigation not propelled by oars:

(3) "master" includes every person (other than a pilot) having command or charge of a ship:

(4) "passenger" means a person above the age of twelve years, or two persons between the ages of one year and twelve years; but it does not include either a person in attendance on another person who is not a native of Asia or Africa, or a child under one year of age:

(5) "voyage" means the whole distance between the ship's port of departure and her final port of arrival:

(6) "long voyage" means any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port:

(7) "short voyage" means any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port:

Illustration.

A ship starts from port A, and is destined finally to arrive at port B, between which ports the ordinary distance is ten days: but she is to touch at four intermediate ports, no one of which is in ordinary circumstances more than five days from the next one. This is a short voyage.

(8) "Chief Officer of Customs" means the executive officer of highest rank in the Department of Customs in any port to which this Act applies.

The Native Passenger Ships Bill, 1886.
(Chapter II.—Rules for all Voyages.—Sections 6-15.)

CHAPTER II.

RULES FOR ALL VOYAGES.

Act VIII, s. 6.] 6. (1) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded upon a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

Act VIII, s. 7.] 7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer authorised in this behalf by the Local Government that the ship is to carry native passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

Act VIII, s. 8.] 8. After receiving the notice, the officer aforesaid, or a person authorized by him, shall be at liberty at all times to enter and inspect the ship and the fittings, provisions and stores therein.

Act VIII, s. 9.] 9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer of the Government whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

Act VIII, s. 10.] 10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

Act VIII, s. 11.] 11. The second of the certificates (hereinafter called "certificate B") shall state—

(a) the voyage which the ship is to make and the intermediate ports, if any, at which she is to touch;

(b) that she has the proper complement of officers and seamen;

(c) that provisions, fuel and pure water, over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable), according to the scale for the time being prescribed by those rules;

(d) that the master holds certificate A;

(e) if the ship is to make a short voyage in a season of foul weather, and to carry

upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(f) if she is to sail to any port in the Red Sea, that she is propelled principally by steam and, if she is to carry more than one hundred passengers being natives of Asia or Africa, that she has on board a medical officer licensed in accordance with the rules under this Act; and

(g) such other particulars, if any, as may be prescribed by those rules.

12. The person by whom certificate A and certificate B are to be granted shall be the officer referred to in section 7. [Act XVII, 1883, s. 2.]

13. Where the master of a ship produces to that officer either of the following certificates, namely— [Act VIII, 1876, s. 13.]

(a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(b) a certificate granted under the authority of a British Indian Government on a date not more than one year before the proposed day of sailing and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, [Act VII, 1884, s. 41.]

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

14. (1) After receiving the notice required by section 7, the officer aforesaid may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make: [Act VIII, 1876, s. 14.]

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer aforesaid causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer aforesaid should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

15. (1) The officer authorized to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers. [Act VIII, 1876, s. 15.]

The Native Passenger Ships Bill, 1886.

(Chapter II.—Rules for all Voyages.—Sections 16-17.—Chapter III.—Rules for short Voyages.—Sections 18-20.—Chapter IV.—Rules for long Voyages.—Sections 21-23.)

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer aforesaid to grant or withhold a certificate under this Act.

[Act VIII, 1876, s. 16.] (5) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

[Act VIII, 1876, s. 17.] 16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up in that part during the voyage.

[Act VIII, 1876, s. 18, amended.] 17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use provisions of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, apply so far as regards the supply of provisions for that passenger.

CHAPTER III.

RULES FOR SHORT VOYAGES.

[Act VIII, 1876, s. 19.] 18. (1) For seasons of fair weather, a ship performing a short voyage shall contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and shall contain on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, a ship propelled by sails and performing a short voyage shall contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and shall contain on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and shall contain on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

[Act VIII, 1876, s. 20.] 19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master

shall obtain a supplementary certificate from the proper officer at that port, stating—

- (a) the number of passengers so taken on board; and
- (b) that provisions, fuel and pure water, over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable), according to the scale for the time being prescribed by those rules:

Provided that, if the certificate B held by the master of the ship states that provisions, fuel and pure water, over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

20. When the ship reaches her final port of arrival, the master shall notify, to such officer as the Governor-General in Council appoints in this behalf, the date and supposed cause of death of every passenger dying on the voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

21. (1) A ship propelled by sails and performing a long voyage shall contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers and the number of the crew, and shall deliver them to the officer appointed under section 20, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall forthwith on the arrival of the ship at her destination or at any port at which it may be intended to land passengers, and before any passengers are landed, produce the statement, with any additions thereto made, to any person lawfully exercising consular authority on behalf of Her Majesty at the port of

The Native Passenger Ships Bill, 1886.
(Chapter IV.—Rules for long Voyages.—Sections 24-30.—Chapter V.—Penalties.—Sections 31-33.)

arrival if it is a foreign port, or to the Chief Officer of Customs, or the officer (if any) appointed under this Act to receive such statements, at any port or place at which it is intended to land the passengers or any of them.

[Act VIII,
1876, s. 25.]

Ship taking additional passengers and touching at intermediate port.

24. (1) In either of the following cases, namely,—

(a) if, after the ship has departed or proceeded on a long voyage, any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or

(b) if the ship upon her voyage touches or arrives at any such port, having previously received on board additional passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the proper officer at that port, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Act in that behalf shall be applicable to any certificate granted or statement made under this section.

[Act XVII,
1883, s. 3.]

25. In the case of a ship sailing from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of Rs. 5,000, conditioned—

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers; and

(b) that the master and medical officer (if any) of the ship shall comply with on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships sailing between ports in British India and ports in the Red Sea as the Governor-General in Council may make under this Act.

[Act VIII,
1876, s. 27,
Act XVII,
1883, s. 4.]

26. A ship carrying more than sixty passengers sailing to or being natives of Asia or from port in Red Sea to Africa, and sailing from any port in British India to any port in the Red Sea, or from any port in the Red Sea to any port in British India, shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

[Act VIII,
1876, s. 28, &
Act XVII,
1883, s. 5.]

27. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than in the proportion prescribed for her by this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

28. A ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers being natives of Asia or Africa shall have on board a medical officer licensed in accordance with the rules under this Act. [Act XVII, 1883, s. 6.]

29. A ship sailing from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam. [Act XVII, 1883, s. 6.]

30. (1) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class sailing from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose. [Act XVII, 1883, s. 6.]

(2) If, in the opinion of the officer making an inspection under this section, a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

31. If a ship departs or proceeds upon a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger conveyed in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port within British India, may be seized and detained by any Chief Officer of Customs until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act: [Act VIII, 1876, s. 29.]

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year. [New.]

32. If a person impedes or refuses to allow the entry or inspection authorized under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both. [Act VIII, 1876, s. 30.]

33. If a master or owner wilfully fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both. [Act VIII, 1876, s. 31.]